State of Iowa

2000

ACTS AND JOINT RESOLUTIONS
(Session Laws)

Enacted at the

2000 REGULAR SESSION

of the

Seventy-Eighth General Assembly

of the

State of Iowa

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

REGULAR SESSION BEGUN ON THE TENTH DAY OF JANUARY
AND ENDED ON THE TWENTY-SIXTH DAY OF APRIL, A.D. 2000

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GENERAL ASSEMBLY OF IOWA
Des Moines

PREFACE

CERTIFICATION

We, Diane E. Bolender, Director, Legislative Service Bureau, 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 2000 Regular Session of the Seventy-eighth 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 2001 IOWA CODE IS PUBLISHED. Changes will be shown in the Tables of Disposition of Acts in the 2001 Iowa Code.

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

Effective dates. The Acts took effect on July 1, 2000, unless otherwise provided. See Iowa Code section 3.7. The date of enactment is the date an Act is approved by the Governor, which is shown at the end of each Act.

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

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

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ELECTIVE OFFICERS

Name and Office	County from which originally chosen
GOVERNOR	
THOMAS J. VILSACK	Henry
John Norris, Chief of Staff	Montgomery
LIEUTENANT GOVERNOR	
SALLY J. PEDERSON	Polk
Dawn Wilson, Senior Advisor to Lieutenant Governor	Polk
Molly Culbertson, Special Assistant to Lieutenant Governor	Polk
Katherine Riley, Lieutenant Governor's Scheduler	Polk
SECRETARY OF STATE	
CHESTER J. CULVER	Polk
Dean Lerner, Chief Deputy and Deputy of Corporations	Polk
Bob Galbraith, Deputy of Elections and Voter Registration	Polk
Donald Stanley, Jr., Deputy of Communications	Polk
Joni Klaassen, Deputy of Administration	Polk
AUDITOR OF STATE	
RICHARD D. JOHNSON	Polk
Warren G. Jenkins, Chief Deputy Auditor of State	Polk
Judith A. Vander Linden, Deputy, Administration Division	Polk
Tamera S. Kusian, Acting Deputy, Performance Investigation Division	Polk
Andrew E. Nielsen, Deputy, Financial Audit Division	Polk
TREASURER OF STATE	
MICHAEL L. FITZGERALD	Polk
Steven F. Miller, Deputy Treasurer	Polk
Stefanie G. Devin, Deputy Treasurer	Polk
Bret Mills, Deputy Treasurer	Polk
SECRETARY OF AGRICULTURE	
PATTY JUDGE	Monroe
Brent Halling, Deputy Secretary	Dallas
Mary Jane Olney, Administrative Division Director	Polk
Daryl Frey, Laboratory Division Director	Polk
Ronald Rowland, Regulatory Division Director	Polk
James Gulliford, Soil Conservation Division Director	Polk
Steve Ferguson, Agricultural Development Authority Director	Polk
ATTORNEY GENERAL	
THOMAS J. MILLER	Polk
Tam Ormiston, Deputy Attorney General	Polk
Gordon Allen, Deputy Attorney General	Polk
Julie Pottorff, Deputy Attorney General	Polk
Douglas Marek, Deputy Attorney General	Story
Eric Tabor, Chief of Staff	Jackson

GENERAL ASSEMBLY

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

SENATORS

Name and Residence	Occupation	Senatorial District	Former Legislative Service
Angelo, Jeff Creston	Economic Developer	44th—Adams, Decatur, Page, Ringgold, Taylor, *Union*	77, 78(1st)
Bartz, Merlin E. Grafton	Farmer/Laborer	10th—Cerro Gordo, Mitchell, *Worth*	74, 74X, 74XX, 75, 76, 77, 78(1st)
Behn, Jerry Boone	Farmer	40th—*Boone*, Carroll, Greene	77, 78(1st)
Black, Dennis H. Grinnell	Conservationist	29th—*Jasper*, Mahaska, Marshall, Poweshiek	70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76, 77, 78(1st)
Boettger, Nancy J. Harlan	Farmer, Former Educator	41st—Audubon, Harrison, Pottawattamie, *Shelby*	76, 77, 78(1st)
Bolkcom, Joe Iowa City	Legislator	23rd—*Johnson*	78(1st)
Connolly, Michael W. Dubuque	School Administrator	18th—*Dubuque*	68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76, 77, 78(1st)
Dearden, Dick Des Moines	Retired	35th—*Polk*	76, 77, 78(1st)
Deluhery, Patrick J. Davenport	College Teacher	22nd—*Scott*	68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76, 77, 78(1st)
Drake, Richard F. Muscatine	Farmer	24th—Johnson, Louisa, *Muscatine*, Scott	63, 64, 65, 66, 67, 67X, 68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76, 77, 78(1st)
Dvorsky, Robert E. Coralville	Job Developer, Community-Based Corrections	25th—*Johnson*, Linn	72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76, 77, 78(1st)
Fink, William (Bill) Carlisle	Teacher	45th—Marion, *Warren*	75, 76, 77, 78(1st)
Flynn, Tom Epworth	Business Owner	17th—Delaware, *Dubuque*, Jackson	76, 77, 78(1st)
Fraise, Gene Fort Madison	Farmer	50th—Des Moines, *Lee*	71(2nd), 72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76, 77, 78(1st)

Name and Residence	Occupation	Senatorial District	Former Legislative Service
Freeman, Mary Lou Alta	Legislator	5th—*Buena Vista*, Cherokee, Clay, O'Brien, Plymouth, Pocahontas	75(2nd), 76, 77, 78(1st)
Gaskill, E. Thurman Corwith	Farmer	8th—*Hancock*, Humboldt, Kossuth, Winnebago, Wright	77(2nd), 78(1st)
Gronstal, Michael E. Council Bluffs		42nd—*Pottawattamie*	70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76, 77, 78(1st)
Hammond, Johnie Ames	Legislator	31st—*Story*	70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76, 77, 78(1st)
Hansen, Steve Sioux City	Adjunct Instructor/ Legislator/Property Mgmt.	1st—*Woodbury*	72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76, 77, 78(1st)
Harper, Patricia Waterloo	Retired Educator	13th—*Black Hawk*	72, 72X, 72XX, 73, 75, 76, 77, 78(1st)
Hedge, H. Kay Fremont	Farmer	48th—Keokuk, *Mahaska*, Marion, Wapello, Washington	73, 74, 74X, 74XX, 75, 76, 77, 78(1st)
Horn, Wally E. Cedar Rapids	Teacher (Retired)	27th—*Linn*	65, 66, 67, 67X, 68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76, 77, 78(1st)
Iverson, Stewart E., Jr. Dows	Farmer	9th—Franklin, Hamilton, Hardin, *Wright*	73(2nd), 74, 74X, 74XX, 75, 76, 77, 78(1st)
Jensen, John W. Plainfield	Farmer	11th—Black Hawk, *Bremer*, Butler, Grundy	68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76, 77, 78(1st)
Johnson, JoAnn Adel		39th—Adair, *Dallas*, Guthrie, Madison	76, 77, 78(1st)
Judge, John Albia	Farmer	46th—Appanoose, Clarke, Davis, Lucas, *Monroe*, Van Buren, Wayne	78(1st)
Kibbie, John P. (Jack) Emmetsburg	Farmer	4th—Clay, Dickinson, Emmet, Kossuth, *Palo Alto*	59, 60, 60X, 61, 62, 73, 74, 74X, 74XX, 75, 76, 77, 78(1st)
King, Steve Kiron	Earth Moving Contractor	6th—Crawford, Ida, Monona, *Sac*, Woodbury	77, 78(1st)
Kramer, Mary West Des Moines		37th—*Polk*	74, 74X, 74XX, 75, 76, 77, 78(1st)
Lamberti, Jeffrey M. Ankeny	Attorney	33rd—*Polk*	76, 77, 78(1st)
Lundby, Mary A. Marion	Legislator	26th—*Linn*	72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76, 77, 78(1st)

Name and Residence	Occupation	Senatorial District	Former Legislative Service
Maddox, Gene Clive	Lawyer	38th—Dallas, *Polk*	75, 76, 77, 78(1st)
McCoy, Matt Des Moines		34th—*Polk*	75, 76, 77, 78(1st)
McKean, Andy Anamosa	Lawyer, Innkeeper	28th—*Jones*, Linn	68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76, 77, 78(1st)
McKibben, Larry Marshalltown	Lawyer	32nd—*Marshall*, Story	77, 78(1st)
McLaren, Derryl Farragut	Farmer	43rd—Cass, *Fremont*, Mills, Montgomery, Pottawattamie	74, 74X, 74XX, 75, 76, 77, 78(1st)
Miller, David Libertyville	Attorney	47th—*Jefferson*, Van Buren, Wapello	78(1st)
Redfern, Donald B. Cedar Falls	Attorney/Teacher	12th—*Black Hawk*	75(2nd), 76, 77, 78(1st)
Redwine, John Sioux City	Hospital Administrator/ Family Practitioner	2nd—*Plymouth*, Woodbury	77, 78(1st)
Rehberg, Kitty Rowley	Farmer	14th—Black Hawk, *Buchanan*, Delaware, Fayette	77, 78(1st)
Rife, Jack Durant	Farmer	20th—*Cedar*, Clinton, Jones, Scott	70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76, 77, 78(1st)
Rittmer, Sheldon De Witt	Farmer	19th—*Clinton*, Scott	74, 74X, 74XX, 75, 76, 77, 78(1st)
Schuerer, Neal Amana	Restaurateur	30th—Benton, Black Hawk, *Iowa*, Tama	77, 78(1st)
Sexton, Mike Rockwell City	Farmer	7th—Boone, *Calhoun*, Hamilton, Webster	78(1st)
Shearer, Mark S. Washington	Communications Consultant	49th—Des Moines, Henry, Lee, *Washington*	73, 74, 78(1st)
Soukup, Betty A. New Hampton	Legislator	15th—*Chickasaw*, Floyd, Howard, Mitchell, Winneshiek	78(1st)
Szymoniak, Elaine Des Moines	Retired	36th—*Polk*	73, 74, 74X, 74XX, 75, 76, 77, 78(1st)
Tinsman, Maggie Davenport	Social Worker	21st—*Scott*	73, 74, 74X, 74XX, 75, 76, 77, 78(1st)
Veenstra, Ken Orange City	Insurance Agent	3rd—Lyon, O'Brien, Osceola, *Sioux*	76, 77, 78(1st)
Zieman, Lyle E. Postville	Retired Farmer	16th—*Allamakee*, Clayton, Fayette, Winneshiek	75, 76, 77, 78(1st)

REPRESENTATIVES

Name and Residence	Occupation	Representative District	Former Legislative Service
Alons, Dwayne Hull	Farmer	5th—*Sioux*	78(1st)
Arnold, Richard D. Russell	Farmer	91st—Appanoose, Clarke, *Lucas*, Wayne	76, 77, 78(1st)
Barry, Donna M. Dunlap	Farmer	82nd—*Harrison*, Pottawattamie	76, 77, 78(1st)
Baudler, Clel Greenfield	Retired State Trooper/ Farmer	78th—*Adair*, Guthrie, Madison	78(1st)
Bell, Paul A. Newton	Police Lieutenant, Newton	57th—*Jasper*	75, 76, 77, 78(1st)
Blodgett, Gary B. Clear Lake	Retired Orthodontist	19th—*Cerro Gordo*	75, 76, 77, 78(1st)
Boal, Carmine Ankeny	Legislator	65th—*Polk*	78(1st)
Boddicker, Dan Tipton	Electrical Engineer	39th—*Cedar*, Clinton, Jones	75, 76, 77, 78(1st)
Boggess, Effie Villisca	Retired Farmer	87th—Adams, Page, *Taylor*	76, 77, 78(1st)
Bradley, Clyde Camanche	Retired Engineer	37th—*Clinton*, Scott	76, 77, 78(1st)
Brauns, Barry D. Muscatine	Muscatine County Fair Manager	47th—Johnson, Louisa, *Muscatine*	75, 76, 77, 78(1st)
Brunkhorst, Bob Waverly	Computer Analyst	22nd—Black Hawk, *Bremer*	75, 76, 77, 78(1st)
Bukta, Polly Clinton	Educator	38th—*Clinton*	77, 78(1st)
[1]Burnett, Cecelia Ames	Consultant/Legislator	61st—*Story*	76, 77, 78(1st)
Carroll, Danny C. Grinnell	Community Relations Manager	58th—Jasper, Mahaska, Marshall, *Poweshiek*	76, 77, 78(1st)
Cataldo, Michael J. Des Moines	Vice President, Iowa EPS Products	68th—*Polk*	75, 76, 77, 78(1st)
[2]Chapman, Kathleen H. Cedar Rapids	Lawyer	53rd—*Linn*	70, 71, 72, 72X, 72XX, 73, 74, 77, 78(1st)
Chiodo, Frank J. Des Moines	Small Business Manager	67th—*Polk*	77, 78(1st)
Cohoon, Dennis M. Burlington	Teacher	100th—*Des Moines*	72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76, 77, 78(1st)
Connors, John H. Des Moines	Retired Fire Captain/Labor Arbitrator	69th—*Polk*	65, 66, 67, 67X, 68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76, 77, 78(1st)

[1] Resigned July 1, 1999
[2] Resigned December 6, 1999

Name and Residence	Occupation	Representative District	Former Legislative Service
[3]Corbett, Ron J. Cedar Rapids	Special Project Manager, CRST International	52nd—*Linn*	72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76, 77, 78(1st)
Cormack, Mike Fort Dodge	Substitute Teacher/Youth Baseball Coach	13th—*Webster*	76, 77, 78(1st)
Davis, Galen M. Ottumwa	Police Sergeant	93rd—*Wapello*	78(1st)
Dix, Bill Shell Rock	Farmer	21st—*Butler*, Grundy	77, 78(1st)
Doderer, Minnette Iowa City	Legislator	45th—*Johnson*	60X, 61, 62, 63, 64, 65, 66, 67, 67X, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76, 77, 78(1st)
Dolecheck, Cecil Mount Ayr	Farmer	88th—Decatur, *Ringgold*, Taylor, Union	77, 78(1st)
Dotzler, William A., Jr. Waterloo	Machine Operator/Labor Representative	26th—*Black Hawk*	77, 78(1st)
Drake, Jack Lewis	Farmer	81st—Audubon, *Pottawattamie*, Shelby	75, 76, 77, 78(1st)
Drees, James H. Manning	Retired	80th—*Carroll*, Greene	76, 77, 78(1st)
Eddie, Russell J. Storm Lake	Retired Farmer	10th—*Buena Vista*, Clay, Pocahontas	72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76, 77, 78(1st)
Falck, Steve Stanley	Real Estate Appraiser	28th—Buchanan, *Fayette*	77, 78(1st)
Fallon, Ed Des Moines	Non-Profit Director	70th—*Polk*	75, 76, 77, 78(1st)
Foege, Ro Mount Vernon	School Social Worker	50th—Johnson, *Linn*	77, 78(1st)
Ford, Wayne Des Moines	Exec. Dir. Urban Dreams	71st—*Polk*	77, 78(1st)
Frevert, Marcella R. Emmetsburg	Legislator	8th—Clay, Kossuth, *Palo Alto*	77, 78(1st)
Garman, Teresa Ames	Farmer/Landlord	63rd—Marshall, *Story*	72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76, 77, 78(1st)
Gipp, Chuck Decorah	Farmer	31st—Allamakee, *Winneshiek*	74, 74X, 74XX, 75, 76, 77, 78(1st)
[4]Greimann, Jane Ames	Retired School Teacher	61st—*Story*	None
Greiner, Sandra H. Keota	Farmer	96th—Keokuk, Mahaska, Wapello, *Washington*	75, 76, 77, 78(1st)
Grundberg, Betty Des Moines	Property Management and Renovations	73rd—*Polk*	75, 76, 77, 78(1st)
Hahn, James F. Muscatine	Real Estate/Sales/ Management	48th—*Muscatine*, Scott	74, 74X, 74XX, 75, 76, 77, 78(1st)

[3] Resigned May 7, 1999
[4] Elected in Special Election November 2, 1999

Name and Residence	Occupation	Representative District	Former Legislative Service
Hansen, Brad L. Carter Lake	Health Administrator	83rd—*Pottawattamie*	77, 78(1st)
Heaton, David E. Mount Pleasant	Restaurant Owner	97th—Des Moines, *Henry*, Washington	76, 77, 78(1st)
Hoffman, Clarence C. Charter Oak	Insurance	12th—*Crawford*, Monona	78(1st)
Holmes, Danny J. Walcott	Accountant	40th—*Scott*	77, 78(1st)
Holveck, Jack Des Moines	Attorney	72nd—*Polk*	70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76, 77, 78(1st)
Horbach, Lance Tama	Independent Insurance Agent	60th—Benton, Black Hawk, *Tama*	78(1st)
Houser, Hubert M. Carson	Farmer	85th—Fremont, Mills, *Pottawattamie*	75, 76, 77, 78(1st)
Huseman, Dan Aurelia	Farmer	9th—Buena Vista, *Cherokee*, O'Brien, Plymouth	76, 77, 78(1st)
Huser, Geri D. Altoona	Social Worker	66th—*Polk*	77, 78(1st)
Jacobs, Elizabeth (Libby) S. West Des Moines	Community Relations Officer	74th—*Polk*	76, 77, 78(1st)
Jager, Michael D. La Porte City	Small Business Owner	27th—*Black Hawk*, Buchanan, Delaware	78(1st)
Jenkins, G. Willard Waterloo	Engineer	24th—*Black Hawk*	77, 78(1st)
Jochum, Pam Dubuque		35th—*Dubuque*	75, 76, 77, 78(1st)
Johnson, David Ocheyedan		6th—Lyon, O'Brien, *Osceola*, Sioux	78(1st)
Kettering, Steven C. Lake View	Community Banker	11th—Ida, *Sac*, Woodbury	78(1st)
Klemme, Ralph F. Le Mars	Farmer	4th—*Plymouth*, Woodbury	75, 76, 77, 78(1st)
Kreiman, Keith A. Bloomfield	Attorney	92nd—Appanoose, *Davis*, Monroe, Van Buren	75, 76, 77, 78(1st)
Kuhn, Mark A. Charles City	Farmer	29th—*Floyd*, Mitchell	78(1st)
Larkin, Rick Fort Madison	Correctional Counselor	99th—Des Moines, *Lee*	75, 76, 77, 78(1st)
Larson, Charles W., Jr. Cedar Rapids	Attorney — ESCO Group	55th—*Linn*	75, 76, 77, 78(1st)
Lord, David G. Perry	Self-Employed Businessman	77th—*Dallas*, Madison	76, 77, 78(1st)
Martin, Mona K. Davenport	Property Management	43rd—*Scott*	75, 76, 77, 78(1st)

Name and Residence	Occupation	Representative District	Former Legislative Service
Mascher, Mary Iowa City	Teacher	46th—*Johnson*	76, 77, 78(1st)
May, Dennis Kensett	Farmer	20th—Cerro Gordo, Mitchell, *Worth*	72, 72X, 72XX, 73, 75, 76, 77, 78(1st)
Mertz, Dolores M. Ottosen	Farmer/Legislator	15th—Humboldt, *Kossuth*	73, 74, 74X, 74XX, 75, 76, 77, 78(1st)
Metcalf, Janet S. Urbandale	Legislator	75th—*Polk*	71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76, 77, 78(1st)
Millage, David A. Bettendorf	Attorney	41st—*Scott*	74, 74X, 74XX, 75, 76, 77, 78 (1st)
Mundie, Norman Fort Dodge	Retired Farmer	14th—Boone, Calhoun, Hamilton, *Webster*	75, 76, 77, 78(1st)
Murphy, Patrick J. Dubuque	Self-Employed, Jajona Enterprizes	36th—*Dubuque*	73(2nd), 74, 74X, 74XX, 75, 76, 77, 78(1st)
Myers, Richard E. Iowa City	Business Owner	49th—*Johnson*	75(2nd), 76, 77, 78(1st)
Nelson-Forbes, Beverly J. Marshalltown	Retired Executive Vice President, Iowa Valley Community College	64th—*Marshall*	76, 77, 78(1st)
O'Brien, Mike Boone	Retired Teacher	79th—*Boone*, Greene	75, 76, 77, 78(1st)
Osterhaus, Robert J. (Bob) Maquoketa	Pharmacist	34th—Dubuque, *Jackson*	76(2nd), 77, 78(1st)
Parmenter, Dennis W. Cambridge	Attorney	62nd—*Story*	78(1st)
Raecker, J. Scott Urbandale	Executive Director—Institute for Character Development	76th—*Polk*, Dallas	78(1st)
Rants, Christopher Sioux City	Pierce and Associates	3rd—*Woodbury*	75, 76, 77, 78(1st)
Rayhons, Henry Garner	Farmer	16th—*Hancock*, Winnebago, Wright	77, 78(1st)
Reynolds, Rebecca Bonaparte	Legislator	94th—Jefferson, *Van Buren*, Wapello	77, 78(1st)
Richardson, Steve Indianola	Teacher	89th—*Warren*	77, 78(1st)
Scherrman, Paul Farley	Business Owner	33rd—Delaware, *Dubuque*	77, 78(1st)
Schrader, David Monroe	Small Business Owner/Operator	90th—*Marion*, Warren	72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76, 77, 78(1st)
[5]Shey, Patrick Cedar Rapids	Attorney	52nd—*Linn*	None
Shoultz, Don Waterloo	Consultant	25th—*Black Hawk*	70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76, 77, 78(1st)

[5] Elected in Special Election November 2, 1999

Name and Residence	Occupation	Representative District	Former Legislative Service
Siegrist, Brent Council Bluffs	Consultant	84th—*Pottawattamie*	71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76, 77, 78(1st)
Stevens, Greg Milford	Teacher	7th—*Dickinson*, Emmet, Palo Alto	78(1st)
Sukup, Steven E. Dougherty	Industrial Engineer	18th—*Franklin*, Hardin	76, 77, 78(1st)
Sunderbruch, John P. Davenport	Firefighter/EMT-I	44th—*Scott*	78(1st)
[6]Taylor, Dick Cedar Rapids	Retired Electrician	53rd—*Linn*	None
Taylor, Todd Cedar Rapids	Labor Representative	54th—*Linn*	76(2nd), 77, 78(1st)
Teig, Russell W. Jewell	Farmer	17th—*Hamilton*, Hardin, Wright	76, 77, 78(1st)
Thomas, Roger Elkader	Farmer	32nd—Allamakee, *Clayton*, Fayette	77, 78(1st)
Thomson, Rosemary R. Marion		51st—*Linn*	76, 77, 78(1st)
Tyrrell, Phil North English	Independent Insurance Agent	59th—Benton, *Iowa*	68, 69, 69X, 69XX, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76, 77, 78(1st)
Van Engelenhoven, James L. Leighton	Farmer	95th—*Mahaska*, Marion	78(1st)
Van Fossen, James Davenport	Economic Dev. Analyst — MidAmerican Energy	42nd—*Scott*	76, 77, 78(1st)
Warnstadt, Steven H. Sioux City	Adjunct Instructor	2nd—*Woodbury*	76, 77, 78(1st)
Weidman, Dick Griswold	Retired State Trooper, Funeral Home Employee	86th—*Cass*, Montgomery, Pottawattamie	74, 74X, 74XX, 75, 76, 77, 78(1st)
Weigel, Keith New Hampton	Certified Financial Planner	30th—*Chickasaw*, Howard, Winneshiek	75, 76, 77, 78(1st)
Welter, Jerry J. Monticello	Retired Farmer	56th—*Jones*, Linn	75, 76, 77, 78(1st)
Whitead, Wes Sioux City	Retired Small Business Owner	1st—*Woodbury*	77, 78(1st)
Wise, Philip Keokuk	Teacher	98th—Henry, *Lee*	72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76, 77, 78(1st)
Witt, William G. Cedar Falls	Photojournalist	23rd—*Black Hawk*	75, 76, 77, 78(1st)

[6] Elected in Special Election January 4, 2000

JUDICIAL DEPARTMENT

JUSTICES OF THE SUPREME COURT

(Justices listed according to seniority)

Name	Office Address	Term Ending
Arthur A. McGiverin, C.J.	Des Moines and Ottumwa	December 31, 2004
Jerry L. Larson	Harlan	December 31, 2004
James H. Carter	Cedar Rapids	December 31, 2000
Louis A. Lavorato	Des Moines	December 31, 2004
Linda K. Neuman	Davenport	December 31, 2004
Bruce M. Snell Jr.	Ida Grove	December 31, 2004
Marsha K. Ternus	Des Moines	December 31, 2002
Mark S. Cady	Fort Dodge	December 31, 2000

JUDGES OF THE COURT OF APPEALS

(Judges listed according to seniority)

Rosemary Shaw Sackett, C.J.	Spencer	December 31, 2002
Terry L. Huitink	Ireton	December 31, 2002
Michael J. Streit	Chariton	December 31, 2004
Gayle Nelson Vogel	Knoxville	December 31, 2004
Robert E. Mahan	Waterloo	December 31, 2004
Van D. Zimmer	Vinton	December 31, 2000
John C. Miller	Burlington	December 31, 2000
Daryl L. Hecht	Sioux City	December 31, 2000
Anu Vaitheswaran	Des Moines	December 31, 2000

CONGRESSIONAL DELEGATION AND DISTRICT OFFICES

UNITED STATES SENATORS

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

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

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

131 East 4th Street
314 B Federal Building
Davenport, Iowa 52801
(319) 322-1338

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

315 Federal Building
350 West 6th Street
Dubuque, Iowa 52001
(319) 582-2130

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

721 Federal Building
210 Walnut Street
Des Moines, Iowa 50309
(515) 284-4890

210 Waterloo Building
531 Commercial Street
Waterloo, Iowa 50701
(319) 232-6657

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

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

116 Federal Building
131 East 4th Street
Davenport, Iowa 52801
(319) 322-4331

307 Federal Building
8 South 6th Street
Council Bluffs, Iowa 51501
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UNITED STATES REPRESENTATIVES

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2186 Rayburn House Office Bldg.
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UNITED STATES REPRESENTATIVES — Continued

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CONDITION OF STATE TREASURY

June 30, 1999

	Balance July 1, 1998	Total Receipts and Transfers	Total Available	Total Disbursements and Transfers	Balance June 30, 1999
General Fund	$ 708,905,079	$ 7,057,141,987	$ 7,766,047,066	$ 7,135,592,896	$ 630,454,171
Special Revenue Fund	455,146,312	2,044,074,464	2,499,220,776	1,967,402,756	531,818,020
Capitol Projects Fund	125,131,974	154,831,752	279,963,726	161,228,972	118,734,754
Debt Service Fund	10,650,019	1,175,718	11,825,737	1,277,825	10,547,913
Enterprise Fund	56,587,458	365,193,153	421,780,611	364,817,605	56,963,006
Internal Service Fund	72,555,723	326,148,969	398,704,692	342,141,313	56,563,378
Expendable Trust Fund	29,179,496	207,118,792	236,298,288	210,128,946	26,169,342
Nonexpendable Trust Fund	10,730,614	36,381	10,766,995	2,792,321	7,974,675
Pension Fund	10,786,099,756	1,656,474,204	12,442,573,960	528,054,166	11,914,519,794
Trust and Agency Fund	141,500,892	2,946,603,461	3,088,104,353	2,940,812,203	147,292,150
Totals	$12,396,487,323	$14,758,798,882	$27,155,286,205	$13,654,249,001	$13,501,037,204

Balance July 1, 1998	$12,396,487,323
Receipts and Transfers	14,758,798,882
Total Available	27,155,286,205
Disbursements and Transfers	13,654,249,001
Balance June 30, 1999	$13,501,037,204

DEPARTMENT OF REVENUE AND FINANCE

April 12, 2000

ANALYSIS BY CHAPTERS

2000 REGULAR SESSION

For Conversion Tables of Senate and House Files and Joint Resolutions to chapters of the 2000 Acts, see page 854

CH.	FILE	TITLE
1001	SF 2082	School finance — allowable growth
1002	HF 686	Dental assistants — registration and scope of authority
1003	HF 2106	Licensure, ownership, operation, or control of motor vehicle dealers — manufacturers, distributors, wholesalers, and importers
1004	SF 2193	Senior living program
1005	SF 2330	Low-speed vehicles
1006	SF 2091	Discontinuance of cities — procedures
1007	SF 2373	Workers' compensation — nonresident employers — earnings calculation — lien amount approval
1008	HF 2105	Nurse licensure compact
1009	HF 2333	Emergency medical care providers — authority to provide services
1010	HF 2099	Beginning farmer loan program eligibility
1011	HF 2169	Emergency management coordinators — appointment
1012	HF 2173	Intestate succession — great-grandparents, great-aunts, great-uncles, and second cousins
1013	HF 2179	Certified school to career program
1014	HF 2220	Public information requests — internet protocol numbers — confidentiality
1015	SF 2048	City hospital and health care facility boards of trustees — appointment — terms
1016	SF 2147	Motor vehicle regulation — miscellaneous provisions
1017	SF 2164	Dust control on municipal streets — primary road fund expenditure
1018	SF 2256	Soydiesel fuel pilot project
1019	SF 2061	County recorder duties — registration and licensing
1020	SF 2266	Department of public defense — national guard officers — emergency response commission membership
1021	SF 2372	Regulation of physical exercise clubs and social referral services
1022	SF 2388	Corporate reporting to secretary of state
1023	SF 2409	Insurance regulation — miscellaneous provisions
1024	HF 2239	Limited partnerships — transition to limited liability limited partnership status
1025	HF 2248	Proof of motor vehicle financial responsibility
1026	HF 2329	Linked investment programs — qualification period
1027	HF 2420	Sexual abuse and sexual exploitation — statute of limitations
1028	HF 2480	Motor vehicle registration periods
1029	SF 174	Medical assistance advisory council membership
1030	SF 2015	Sexually predatory offenses
1031	SF 2036	Upper Mississippi riverway compact — repeal
1032	SF 2212	Procedures administered by clerk of court
1033	SF 2215	Leaves of absence for partisan political candidates — sheriffs and civil service officers and employees
1034	HF 2168	Dissolution of marriage hearings — exceptions
1035	HF 2218	County and state mutual insurance guaranty association

CH.	FILE	TITLE
1036	HF 2240	Guardianships and conservatorships — notice — counsel
1037	HF 2253	Escape and absence from custody — jurisdiction
1038	HF 2277	Livestock and hunting preserves
1039	HF 2330	Polling places — directional signs
1040	HF 2368	Implements of husbandry
1041	HF 2425	Limited liability company management — limitations — effect
1042	HF 2431	Ethics and campaign disclosure — regulation and enforcement
1043	HF 2531	Emergency medical services funding and lost property disposition
1044	SF 2031	Sex offender registration
1045	SF 2156	Authorized emergency vehicles — blue lights
1046	SF 2200	Domestic insurers — protected cells
1047	SF 2315	Motor vehicle lemon law
1048	SF 2349	Contract care and feeding of swine — processors
1049	HF 2085	Breeding bulls — health certificates
1050	HF 2316	Health organizations — risk-based capital requirements
1051	HF 2365	Review of child deaths
1052	HF 2385	Organ and tissue donor registry
1053	SF 182	Acupuncture — licensure and regulation
1054	SF 2089	School taxes — physical plant and equipment levy — urban renewal projects
1055	SF 2111	School finance — budget adjustments
1056	SF 2221	Juvenile court jurisdiction
1057	SF 2303	Administration of justice — appointments — benefits — magistrate apportionment
1058	HF 2136	Nonsubstantive Code corrections
1059	HF 2172	Law enforcement employment — polygraph examinations
1060	HF 2321	Medical assistance — eligibility — transfer of assets
1061	HF 2512	Rented motor vehicles — stopping, standing, or parking violations
1062	HF 2525	Motor vehicle accidents — damages
1063	SF 2007	Guardians — procurement of professional services for ward
1064	SF 2142	Crime victim compensation
1065	SF 2145	National crime prevention and privacy compact
1066	SF 2314	Communicable and infectious diseases
1067	SF 2344	Child and family services
1068	SF 2371	Water quality initiatives
1069	HF 2254	Real estate title actions — certain older claims
1070	HF 2279	Education practitioner licenses — renewal
1071	HF 2422	Local housing assistance programs — funding
1072	HF 2435	Asbestos removal in schools — funding
1073	HF 2438	Hazardous waste facilities — partial suspension of permitting requirements
1074	SF 2194	Vacation of roads and rights-of-way
1075	SF 2238	Use of school improvement technology funds
1076	SF 2300	Interference with lawful hunting, fishing, or fur harvesting
1077	SF 2411	Public retirement systems
1078	HF 2027	Rural water district infrastructure financing
1079	HF 2148	Business telephone listings
1080	HF 2247	Natural gas pipeline construction — land restoration
1081	HF 2280	Operation recognition program — World War II veterans
1082	HF 2494	Compost material and organic agricultural products
1083	SF 428	Rent control ordinances

CH.	FILE		TITLE
1084	SF	2047	County warrants
1085	SF	2253	Matters related to county officers' duties — instruments affecting property — fees
1086	SF	2326	Household hazardous material collection
1087	SF	2342	Creation of real estate improvement districts
1088	SF	2368	Family investment program — miscellaneous provisions
1089	HF	2315	Health and medical insurance for retirees — city employees
1090	HF	2327	County mental health, mental retardation, and developmental disabilities services funding
1091	HF	2328	Dairy trade practices regulation
1092	HF	2388	Modification of child custody or support orders — pilot project
1093	SF	324	Franchise agreements
1094	SF	2158	Limitation on deposits of depository institutions or holding companies
1095	SF	2248	College student aid — commission — programs
1096	SF	2254	Child support — medical support — data matching
1097	SF	2307	Public and workplace safety and wage payment collection
1098	HF	2146	Regulation of para-educators and education practitioners
1099	HF	2331	Operating a motorboat or sailboat while intoxicated
1100	HF	2394	Frozen food locker plant regulation
1101	HF	2423	Brownfield redevelopment program
1102	HF	2442	International relations
1103	HF	2542	World War II victim property reparations
1104	SF	2079	Import of cigarettes and tobacco products — limitations
1105	SF	2366	Purchase, possession, and sale of cigarettes and tobacco products
1106	HF	2376	Veterans preference — public employment
1107	HF	2393	Confinement site manure applicator certification
1108	HF	2391	Theft detection and detection shielding devices
1109	SF	2249	State agency purchasing preference — bio-based fluids, greases, and lubricants
1110	SF	2312	Pseudorabies control
1111	SF	2348	Loess hills development and conservation authority — hungry canyons alliance — loess hills alliance
1112	SF	2360	Human services — administration and employment
1113	SF	2418	Property tax certification by townships
1114	SF	2420	Electricity and natural gas replacement tax
1115	HF	2470	Indigent defense
1116	HF	2486	Taking of fish and game
1117	HF	2492	State and municipal agencies — fire and emergency medical services — townships
1118	HF	2510	Operating while intoxicated and ignition interlock devices
1119	HF	2522	Domestic abuse actions — plaintiff's mailing address
1120	SF	2126	Health insurance coverage of prescription contraceptives
1121	SF	2294	Juvenile facility education costs
1122	SF	2324	DNA profiling
1123	SF	2369	Interagency sharing of confidential information
1124	SF	2443	Lottery compacts or agreements
1125	HF	2135	Child support — liens — motor vehicle registration — income withholding
1126	HF	2153	Drug policy coordination

CH.	FILE	TITLE
1127	HF 2424	Lewis and Clark bicentennial
1128	HF 2485	Resource enhancement and protection fund — soil and water enhancement account
1129	HF 2521	Mediation of farm disputes
1130	SF 2143	Games and raffles
1131	SF 2146	Criminal defendants — appearance — release
1132	SF 2308	Domestic abuse records and electronic harassment
1133	SF 2313	Driver licensing, authorized emergency vehicles, and miscellaneous motor vehicle provisions
1134	SF 2329	Transportation regulation — miscellaneous provisions
1135	HF 2170	Operating while intoxicated — chemical test evidence
1136	HF 2362	Domestic abuse death review team
1137	HF 2377	Access to child abuse information
1138	HF 2511	Drinking driver restrictions
1139	SF 2213	Farmland improvements near pipelines
1140	SF 2302	Public health programs and issues
1141	SF 2395	State information technology
1142	SF 2426	Horizontal property regimes
1143	HF 2198	School district reorganization and sharing incentives study
1144	HF 2419	Amphetamines and drug paraphernalia — criminal penalties
1145	SF 421	Juvenile court jurisdiction — adoption and termination of parental rights
1146	SF 2424	Internal Revenue Code references and income tax provisions
1147	HF 2317	Entities and subjects regulated by division of insurance
1148	HF 2429	Official publications and county records
1149	HF 2513	Uniform commercial code — secured transactions
1150	HF 2518	Estates and trusts
1151	HF 2145	Gifted and talented program funding
1152	HF 723	Animal torture
1153	SF 228	School employment or volunteer record checks
1154	SF 2092	Substantive Code corrections
1155	SF 2390	Department of inspections and appeals — duties — divisions
1156	SF 2419	Investments by city hospitals
1157	SF 2455	Retired United States armed forces motor vehicle license plates
1158	SF 2459	Annual financial report for urban renewal areas — filing deadline
1159	HF 683	Child custody, visitation, and support — mediation
1160	HF 2090	Department of natural resources — forests and forestry division
1161	HF 2437	Communications between postsecondary schools and students' parents or guardians
1162	HF 2473	Reports and proceedings regarding school violence and other activities — immunity
1163	HF 2550	Iowa educational savings plan trust
1164	HF 2561	Interest on delinquent Iowa egg council assessments
1165	SF 2265	Lascivious acts — additional sentence
1166	HF 2373	Iowa finance authority
1167	HF 2433	Community college governance
1168	HF 2477	Nonhighway transportation
1169	HF 2569	Taxation of sale of livestock ear tags
1170	HF 2474	School and school district accreditation standards
1171	HF 2463	Department of personnel — miscellaneous provisions
1172	SF 2010	Traditional livestock producers — linked investment loans

CH.	FILE	TITLE
1173	SF 2276	Criminal sentencing — earned time credits
1174	SF 2447	Financing of public improvements
1175	HF 2008	Hunting, fishing, and fur harvesting — residency status
1176	HF 2206	Waiver or variance of administrative rules
1177	HF 2519	Probation and parole administration
1178	SF 2327	Purchase or condemnation of property by utilities
1179	HF 2528	Condemnation of property — miscellaneous provisions
1180	SF 2144	Regulation and inspection of health care facilities
1181	SF 2438	Water quality districts
1182	HF 2458	Transportation — aviation
1183	SF 419	Veterinary practice requirements
1184	SF 466	Remediation of agrichemical sites
1185	SF 2113	Massage therapy — licensing
1186	SF 2252	School finance formula — continuation — review
1187	SF 2331	School board members — interest in school contracts
1188	HF 475	Terminology changes — armed forces — gender — lessors of property
1189	HF 2205	Electronic commerce
1190	HF 2541	Rural improvement zones
1191	HF 2557	Unclaimed property
1192	HF 2565	Tobacco use prevention and control
1193	HF 754	Insurance coverage of anesthesia and hospital charges for dental care
1194	HF 2560	Income and property taxes — credits, deductions, and exemptions
1195	HF 2562	Sales and use taxes — information services — transactions delivered electromagnetically, digitally, or via cable or fiber optics
1196	SF 2439	Accelerated career education and job training
1197	HF 2491	Production of life science products
1198	HF 2496	School finance — supplementary weighting
1199	SF 292	Board of educational examiners — investigative information
1200	SF 441	Self-insured dental insurance — school corporations
1201	SF 2241	Criminal offenses and liquor licensee or permittee regulation
1202	SF 2243	Treatment programs for operating while intoxicated violators
1203	SF 2245	Law enforcement — personal property disposition — state and local penalties
1204	SF 2246	Incarceration in other jurisdictions — credit against sentence
1205	SF 2444	Taxation of property used by Iowa national guard
1206	HF 620	Persons with disabilities — wheelchair parking cones — trailer registration plates
1207	HF 2563	Sales and use taxes — nonprofit hospital construction contracts
1208	HF 2579	Tobacco settlement authority Act
1209	HF 2581	Iowa higher education loan authority — authorization
1210	SF 2214	Forcible entry and detainer actions — rent or property recovery
1211	HF 2197	Dissenting shareholder interests in banks or bank holding companies — fair value
1212	HF 2351	Limited sales and use tax exemption for clothing and footwear
1213	HF 2540	Economic development programs — tax credits — incentives
1214	HF 2039	Miscellaneous appropriations, reductions, supplementals, transfers, and credits
1215	HF 2059	Appropriations — national World War II memorial

CH.	FILE	TITLE
1216	HF 2538	Appropriations — transportation
1217	SF 2416	Appropriations — energy conservation programs funding
1218	SF 2141	Merchant marine bonus fund
1219	SF 2450	Compensation for public employees
1220	HF 2533	Federal block grant appropriations
1221	HF 2555	Tobacco settlement fund appropriations
1222	SF 2429	Appropriations — health and human rights
1223	HF 2549	Appropriations — education
1224	SF 2430	Appropriations — agriculture and natural resources
1225	SF 2453	Appropriations — infrastructure and capital projects
1226	SF 2433	Appropriations — state government technology and operations
1227	HF 2554	Appropriations — judicial branch
1228	SF 2435	Appropriations — human services
1229	HF 2552	Appropriations — justice system
1230	SF 2428	Appropriations — economic development
1231	HF 2545	Appropriations — administration and regulation
1232	SF 2452	Miscellaneous appropriations and other provisions
1233	HJR 2014	World food prize awards ceremony
1234	SJR 2005	Nullification of administrative rule — property tax classification of condominiums

2000 Regular Session

of the

Seventy-Eighth General Assembly

of the

State of Iowa

CHAPTER 1001

SCHOOL FINANCE — ALLOWABLE GROWTH

S.F. 2082

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

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

Section 1. Section 257.8, subsection 1, Code Supplement 1999, is amended to read as follows:

1. STATE PERCENT OF GROWTH. ~~The state percent of growth for the budget year beginning July 1, 1999, is three percent.~~ The state percent of growth for the budget year beginning July 1, 2000, is four percent. The state percent of growth for the budget year beginning July 1, 2001, 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, 2001.

Approved February 9, 2000

CHAPTER 1002

DENTAL ASSISTANTS — REGISTRATION AND SCOPE OF AUTHORITY

H.F. 686

AN ACT providing registration requirements and establishing a scope of authority for dental assistants, and providing an effective date.

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

Section 1. Section 147.13, subsection 8, Code 1999, is amended to read as follows:
8. For dentistry, ~~and~~ dental hygiene, and dental assisting, dental examiners.

Sec. 2. Section 147.80, Code 1999, is amended by adding the following new subsection:
NEW SUBSECTION. 27A. 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.

Sec. 3. Section 153.14, subsection 1, Code 1999, 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 and 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. 4. Section 153.14, Code 1999, is amended by adding the following new subsection:
NEW SUBSECTION. 5. Persons registered to practice as a dental assistant.

Sec. 5. NEW SECTION. 153.38 DENTAL ASSISTANTS — SCOPE OF TERM.
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. 6. NEW SECTION. 153.39 DENTAL ASSISTANTS — REGISTRATION REQUIREMENTS, RENEWAL, REVOCATION, OR SUSPENSION.
1. A person shall not practice on or after July 1, 2001 as a dental assistant unless the person has registered with the board and received a certificate of registration pursuant to this chapter.
2. A person shall be registered upon the successful completion of education and examination requirements. Education requirements shall be determined by the board by rule, and may be satisfied either through a formal series of classes or through job equivalency training, according to standards to be determined by the board. The education requirements may include possession of a valid certificate in a nationally recognized course in cardiopulmonary resuscitation. Successful passage of an examination administered by the board, which shall include sections regarding infection control, hazardous materials, and jurisprudence, shall also be required. The board shall establish continuing education requirements as a condition of renewing registration as a registered dental assistant, as well as standards for the suspension or revocation of registration.

3. Individuals employed as a dental assistant as of July 1, 2001, shall be registered with the board and receive a certificate of registration, and individuals employed as a dental assistant after July 1, 2001, shall have a sixty-day period following their first date of employment after July 1, 2001, to comply with the provisions of subsection 1.

Sec. 7. LEGISLATIVE INTENT. It is the intent of the general assembly that the board of dental examiners adopt rules authorized pursuant to sections 5 and 6 of this Act, to be adopted on or before January 1, 2001. The board shall consider, in adopting rules, recommendations of the scope of practice review committee relating to practice as a dental assistant. The board shall not, however, adopt rules that delegate to a dental assistant any of the following services:

1. Administration of local anesthesia.
2. Placement of sealants.
3. Removal of any plaque, stain, calculus, or hard natural or synthetic material except by toothbrush, floss, or rubber cup coronal polish.

Sec. 8. EFFECTIVE DATE. Section 7 of this Act, being deemed of immediate importance, takes effect upon enactment for the purpose of developing rules for adoption on or before January 1, 2001.

Approved February 23, 2000

CHAPTER 1003

LICENSURE, OWNERSHIP, OPERATION, OR CONTROL OF MOTOR VEHICLE DEALERS — MANUFACTURERS, DISTRIBUTORS, WHOLESALERS, AND IMPORTERS

H.F. 2106

AN ACT prohibiting motor vehicle manufacturers, distributors, wholesalers, and importers from being licensed as, owning an interest in, operating, or controlling a motor vehicle dealer, providing exceptions, and making a penalty applicable.

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

Section 1. Section 322.3, Code Supplement 1999, is amended by adding the following new subsection:

NEW SUBSECTION. 14. A manufacturer, distributor, wholesaler, or importer shall not directly or indirectly be licensed as, own an interest in, operate, or control a motor vehicle dealer. This subsection shall not prohibit any of the following:

a. A manufacturer or importer from being licensed as a motor vehicle dealer or owning an interest in, operating, or controlling a motor vehicle dealership for a period not to exceed one year to facilitate transfer of the motor vehicle dealership to a new owner if both of the following apply:

(1) The prior owner transferred the motor vehicle dealership to the manufacturer or importer.

(2) The motor vehicle dealership is continuously offered for sale by the manufacturer or importer upon reasonable terms and conditions.

b. A manufacturer or importer from temporarily owning an interest in a motor vehicle dealership for the purpose of enhancing opportunities for persons who lack the financial resources to purchase the motor vehicle dealership without such assistance. A manufacturer or importer may temporarily own an interest in a motor vehicle dealership pursuant to

this paragraph only if the manufacturer or importer enters into a contract with a person pursuant to whom[1] all of the following apply:

(1) The person operates the motor vehicle dealership.

(2) The person has made a significant financial investment in the motor vehicle dealership and is subject to loss on such investment.

(3) The person has an ownership interest in the motor vehicle dealership.

(4) The person will acquire full ownership of the motor vehicle dealership within a reasonable time under reasonable conditions.

c. A manufacturer or importer from owning an interest in, operating, or controlling a person whose primary business is renting motor vehicles and who is licensed as a used motor vehicle dealer.

d. A manufacturer of motor homes, as defined in section 321.1, or a manufacturer of school buses, as defined in section 321.1, from owning an interest in, operating, or controlling a motor vehicle dealer of the motor homes or school buses manufactured by that manufacturer or from being licensed as a motor vehicle dealer only of the motor homes or school buses manufactured by that manufacturer.

e. A manufacturer from owning a minority interest in an entity that owns and operates motor vehicle dealers, licensed under this chapter or the laws of the jurisdiction in which they are located, of the line-make manufactured by the manufacturer if all of the motor vehicle dealers owned and operated by the entity in this state are motor vehicle dealers of only the line-make manufactured by the manufacturer and if, on January 1, 2000, there was not less than one and not more than three motor vehicle dealers of that line-make licensed under this chapter.

Approved February 23, 2000

CHAPTER 1004

SENIOR LIVING PROGRAM

S.F. 2193

AN ACT relating to the establishment of a senior living program, including the creation of a senior living trust fund, providing for the development and provision of senior living program information and electronic access, providing for a caregiver support and education program, providing for a senior living insurance policy and incentives study, providing for allocation of the moneys in the senior living trust fund, making appropriations, and providing an effective date, and providing for retroactive applicability.

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

DIVISION I
TITLE AND FINDINGS

Section 1. NEW SECTION. 249H.1 TITLE.

This chapter shall be known and may be cited as the "Iowa Senior Living Program Act".

Sec. 2. NEW SECTION. 249H.2 LEGISLATIVE FINDINGS — GOAL.

1. The general assembly finds that:

a. The preservation, improvement, and coordination of the health care infrastructure of Iowa is critical to the health and safety of Iowans.

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[1] See chapter 1232, §66 herein

b. An increasing number of seniors and persons with disabilities in the state require long-term care services provided outside of a medical institution.[1]

c. A full array of long-term care services is necessary to provide cost-effective and appropriate services to the varied population of health care consumers.

d. The supported development of long-term care alternatives, including assisted-living facility services, adult day care, and home and community-based services, is critical in areas of the state where such alternatives otherwise are not likely to be developed.

e. Cost containment in the delivery of health care is necessary to improve services and access for all Iowans.

f. Grants are necessary to cover the expenditures related to the development of alternative health care services. Development of these alternatives will improve access to and delivery of long-term care services to underserved individuals or in underserved areas, which will in turn contain or reduce the cost and improve the quality of health care services.

g. A continuing source of funding is necessary to enhance the state's ability to meet the rising demand of seniors with low and moderate incomes in obtaining an appropriate variety of long-term care services.

2. The goal of this program is to create a comprehensive long-term care system that is consumer-directed, provides a balance between the alternatives of institutionally and noninstitutionally provided services, and contributes to the quality of the lives of Iowans.

DIVISION II
IOWA SENIOR LIVING PROGRAM

Sec. 3. NEW SECTION. 249H.3 DEFINITIONS.

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

1. "Affordable" means rates for payment of services which do not exceed the rates established for providers of medical and health services under the medical assistance program with eligibility for an individual equal to the eligibility for medical assistance pursuant to section 249A.3. In relation to services provided by a provider of services under a home and community-based waiver, "affordable" means that the total monthly cost of the home and community-based waiver services provided do[2] not exceed the cost for that level of care as established by rule by the department of human services, pursuant to chapter 17A, in consultation with the department of elder affairs.

2. "Assisted living" means assisted living as defined in section 231C.2.

3. "Case mix reimbursement" means a reimbursement methodology that recognizes the acuity and need level of the residents of a nursing facility.

4. "Long-term care alternatives" means those services specified under the medical assistance program as home and community-based waiver services for elder persons or adults with disabilities, elder group homes certified under chapter 231B, assisted-living programs certified under chapter 231C, and the PACE program.

5. "Long-term care provider" means a provider of services through long-term care alternatives.

6. "Long-term care service development" means any of the following:

a. The remodeling of existing space and, if necessary, the construction of additional space required to accommodate development of long-term care alternatives, excluding the development of assisted-living programs or elder group home alternatives.

b. New construction for long-term care alternatives, excluding new construction of assisted-living programs or elder group homes, if the senior living coordinating unit determines that new construction is more cost-effective than the conversion of existing space.

7. "Nursing facility" means a licensed nursing facility as defined in section 135C.1 or a licensed hospital as defined in section 135B.1, a distinct part of which provides long-term care nursing facility beds.

8. "Nursing facility conversion" means any of the following:

a. The remodeling of nursing facility space existing on July 1, 1999, and certified for

[1] See chapter 1232, §59 herein
[2] See chapter 1232, §60 herein

medical assistance nursing facility reimbursement and, if necessary, the construction of additional space required to accommodate an assisted-living program.

b. New construction of an assisted-living program if existing nursing facility beds are no longer licensed and the senior living coordinating unit determines that new construction is more cost-effective than the conversion of existing space.

9. "PACE program" means a program of all-inclusive care for the elderly established pursuant to 42 U.S.C. § 1396(u)(4) that provides delivery of comprehensive health and social services to seniors by integrating acute and long-term care services, and that is operated by a public, private, nonprofit, or proprietary entity. "Pre-PACE program" means a PACE program in the initial start-up phase that provides the same scope of services as a PACE program.

10. "Persons with disabilities" means individuals eighteen years of age or older with disabilities as disability is defined in section 225B.2.

11. "Senior" means elder as defined in section 231.4 and as defined under the PACE program pursuant to 42 U.S.C. § 1396(u)(4).

12. "Senior living coordinating unit" means the senior living coordinating unit created within the department of elder affairs pursuant to section 231.58, or its designee.

13. "Senior living program" means the senior living program created in this chapter to provide for long-term care alternatives, long-term care service development, and nursing facility conversion.

Sec. 4. NEW SECTION. 249H.4 SENIOR LIVING TRUST FUND — CREATED — APPROPRIATIONS.

1. A senior living trust fund is created in the state treasury under the authority of the department of human services. Moneys received through intergovernmental agreements for the senior living program and moneys received from sources, including grants, contributions, and participant payments, shall be deposited in the fund.

2. The department of human services, upon receipt of federal revenue on or after October 1, 1999, from public nursing facilities participating in the medical assistance program, shall deposit the federal revenue received in the trust fund, less a sum of five thousand dollars as an administration fee per participating public nursing facility.

3. Moneys deposited in the trust fund shall be used only for the purposes of the senior living program as specified in this chapter.

4. The trust fund shall be operated in accordance with the guidelines of the health care financing administration of the United States department of health and human services. The trust fund shall be separate from the general fund of the state and shall not be considered part of the general fund of the state. The moneys in the trust fund shall not be considered revenue of the state, but rather shall be funds of the senior living program. The moneys in the trust fund are not subject to section 8.33 and shall not be transferred, used, obligated, appropriated, or otherwise encumbered, except to provide for the purposes of this chapter. Notwithstanding section 12C.7, subsection 2, interest or earnings on moneys deposited in the trust fund shall be credited to the trust fund.

5. The department of human services shall adopt rules pursuant to chapter 17A to administer the trust fund and to establish procedures for participation by public nursing facilities in the intergovernmental transfer of funds to the senior living trust fund.

6. The treasurer of state shall provide a quarterly report of trust fund activities and balances to the senior living coordinating unit.

Sec. 5. NEW SECTION. 249H.5 ALLOCATIONS — SENIOR LIVING TRUST FUND.

1. Moneys deposited in the senior living trust fund created in section 249H.4 shall be used only as provided in appropriations from the trust fund to the department of human services and the department of elder affairs, and for purposes, including the awarding of grants, as specified in this chapter.

2. Moneys in the trust fund are allocated, subject to their appropriation by the general assembly, as follows:

a. To the department of human services, a maximum of eighty million dollars for the fiscal period beginning July 1, 2000, and ending on or before June 30, 2005, to be used for the conversion of existing nursing facility space and development of long-term care alternatives.

b. To the department of elder affairs, an amount necessary, annually, for expenses incurred in implementation and administration of the long-term care alternatives programs and for delivery of long-term care services to seniors with low or moderate incomes.

c. To the department of human services, an amount necessary, annually, for all of the following:

(1) Expenses incurred in implementation of the senior living program.

(2) Expenses incurred in administration of medical assistance home and community-based waivers and the PACE program due to implementation of the senior living trust fund.

(3) Expenses incurred due to increased service delivery provided under medical assistance home and community-based waivers as a result of nursing facility conversions and long-term care service development, for the fiscal period beginning July 1, 2000, and ending on or before June 30, 2005.

(4) Expenses incurred in program administration related to implementation of nursing facility case mix reimbursement under the medical assistance program.

d. To the department of human services, an amount necessary to provide funding for nursing facility provider reimbursements, using the percentile-based reimbursement system, and to provide funding for the transition to a case-mix reimbursement system. Funding shall be provided under this section for the percentile-based reimbursement system, until such time as the case-mix reimbursement system is fully implemented.

e. To the department of human services an amount necessary, annually, for additional expenses incurred relative to implementation of the senior living program in assisting home and community-based waiver consumers with rent expenses pursuant to the state supplementary assistance program.

3. Any funds remaining after disbursement of moneys under subsection 2 shall be invested with the interest earned to be available in subsequent fiscal years for the purposes provided in subsection 2, paragraph "b", and subsection 2, paragraph "c", subparagraphs (1) and (2).

Sec. 6. NEW SECTION. 249H.6 NURSING FACILITY CONVERSION AND LONG-TERM CARE SERVICES DEVELOPMENT GRANTS.

1. The department of human services, at the direction of the senior living coordinating unit, may use moneys appropriated to the department from the senior living trust fund to award grants to any of the following:

a. A licensed nursing facility that has been an approved provider under the medical assistance program for the three-year period prior to application for the grant. The grant awarded may be used to convert all or a portion of the licensed nursing facility to a certified assisted-living program and may be used for capital or one-time expenditures, including but not limited to start-up expenses, training expenses, and operating losses for the first year of operation following conversion associated with the nursing facility conversion.

b. A long-term care provider or a licensed nursing facility that has been an approved provider under the medical assistance program for the three-year period prior to application for the grant or a provider that will meet applicable medical assistance provider requirements as specified in subsection 2, paragraph "c" or "d". The grant awarded may be used for capital or one-time expenditures, including but not limited to start-up expenses, training expenses, and operating losses for the first year of operation for long-term care service development.

2. A grant shall be awarded only to an applicant who meets all of the following criteria, as applicable to the type of grant:

a. The applicant is a long-term care provider or a nursing facility that is located in an area determined by the senior living coordinating unit to be underserved with respect to a particular long-term care alternative service, and that has demonstrated the ability or potential to provide quality long-term care alternative services.

b. The applicant is able to provide a minimum matching contribution of twenty percent of the total cost of any conversion, remodeling, or construction.

c. The applicant is applying for a nursing facility conversion grant and is able to demonstrate all of the following:

(1) Conversion of the nursing facility or a distinct portion of the nursing facility to an assisted-living program is projected to offer efficient and economical care to individuals requiring long-term care services in the service area.

(2) Assisted-living services are otherwise not likely to be available in the area for individuals eligible for services under the medical assistance program.

(3) The resulting reduction in the availability of nursing facility services is not projected to cause undue hardship on those individuals requiring nursing facility services for a period of at least ten years.

(4) Public support following a community-based assessment.

(5) Conversion of the nursing facility is projected to result in a lower per client reimbursement cost to the grant applicant under the medical assistance program.

d. The applicant is applying for a long-term care service development grant and is able to demonstrate all of the following:

(1) Long-term care service development is projected to offer efficient and economical care to individuals requiring long-term care services in the service area.

(2) The proposed long-term care alternative is otherwise not likely to be available in the area for individuals eligible for services under the medical assistance program.

(3) Public support following a community-based assessment.

e. The applicant agrees to do all of the following as applicable to the type of grant:

(1) Participate and maintain a minimum medical assistance client base participation rate of forty percent, subject to the demand for participation by individuals eligible for medical assistance.

(2) Provide a service delivery package that is affordable for those individuals eligible for services under the medical assistance home and community-based services waiver program.

(3) Provide a refund to the senior living trust fund, on an amortized basis, in the amount of the grant, if the applicant or the applicant's successor in interest ceases to operate an affordable long-term care alternative within the first ten-year period of operation following the awarding of the grant or if the applicant or the applicant's successor in interest fails to maintain a participation rate of forty percent in accordance with subparagraph (1).

3. The department of human services shall adopt rules in consultation with the senior living coordinating unit, pursuant to chapter 17A, to provide all of the following:

a. An application process and eligibility criteria for the awarding of grants. The eligibility criteria shall include but are not limited to the applicant's demonstration of an affordable service package, the applicant's use of the funds for allowable costs, and the applicant's ability to refund the funds if required under subsection 2, paragraph "e", subparagraph (3). The primary eligibility criterion used shall be the applicant's potential impact on the overall goal of moving toward a balanced, comprehensive, affordable, high-quality, long-term care system.

b. Criteria to be utilized in determining the amount of the grant awarded.

c. Weighted criteria to be utilized in prioritizing the awarding of grants to individual grantees during a grant cycle. Greater weight shall be given to the applicant's demonstration of potential reduction of nursing facility beds, the applicant's ability to meet demonstrated community need, and the established history of the applicant in providing quality long-term care services.

d. Policies and procedures for certification of the matching funds required of applicants under subsection 2, paragraph "b".

e. Other procedures the department of human services deems necessary for the proper administration of this section, including but not limited to the submission of progress reports on a bimonthly basis to the senior living coordinating unit.

4. The department of human services shall adopt rules to ensure that a nursing facility that receives a nursing facility conversion grant allocates costs in an equitable manner.

5. In addition to the types of grants described in subsection 1, the department of human services, at the direction of the senior living coordinating unit, may also use moneys appropriated to the department from the senior living trust fund to award grants, of not more than one hundred thousand dollars per grant, to licensed nursing facilities that are awarded nursing facility conversion grants and agree, as part of the nursing facility conversion, to also provide adult day care, child care for children with special needs, safe shelter for victims of dependent adult abuse, or respite care.

6. The department of human services shall establish a calendar for receiving and evaluating applications and for awarding of grants.

7. a. The department of human services shall develop a cost report to be completed by a grantee which includes, but is not limited to, revenue, costs, loans undertaken by the grantee, fixed assets of the grantee, a balance sheet, and a profit and loss statement.

b. Grantees shall submit, annually, completed cost reports to the department of human services regarding the project for a period of ten years following the date of initial operation of the grantee's long-term care alternative.

8. The department of human services, in consultation with the department of elder affairs, shall provide annual reports to the governor and the general assembly concerning grants awarded. The annual report shall include the total number of applicants and approved applicants, an overview of the various grants awarded, and detailed reports of the cost of each project funded by a grant and information submitted by the approved applicant.

9. For the purpose of this section, "underserved" means areas in which four and four-tenths percent of the number of individuals sixty-five years of age and older is not greater than the number of currently licensed nursing facility beds and certified assisted-living units. In addition, the department, in determining if an area is underserved, may consider additional information gathered through the department's own research or submitted by an applicant, including but not limited to any of the following:

a. Availability of and access to long-term care alternatives relative to individuals eligible for medical assistance.

b. The current number of seniors and persons with disabilities and the projected number of these individuals.

c. The current number of seniors and persons with disabilities requiring professional nursing care and the projected number of these individuals.

d. The current availability of long-term care alternatives and any known changes in the availability of such alternatives.

10. This section does not create an entitlement to any funds available for grants under this section, and the department of human services may only award grants to the extent funds are available and within its discretion, to the extent applications are approved.

11. In addition to any other remedies provided by law, the department of human services may recoup any grant funding previously awarded and disbursed to a grantee or the grantee's successor in interest and may reduce the amount of any grant awarded, but not yet disbursed, to a grantee or the grantee's successor in interest, by the amount of any refund owed by a grantee or the grantee's successor in interest pursuant to subsection 2, paragraph "e", subparagraph (3).

12. The senior living coordinating unit shall review projects that receive grants under this section to ensure that the goal to provide alternatives to nursing facility care is being met and that an adequate number of nursing facility services remain[3] to meet the needs of Iowans.

Sec. 7. NEW SECTION. 249H.7 HOME AND COMMUNITY-BASED SERVICES FOR SENIORS.

1. Beginning October 1, 2000, the department of elder affairs, in consultation with the senior living coordinating unit, shall use funds appropriated from the senior living trust fund for activities related to the design, maintenance, or expansion of home and

[3] See chapter 1232, §61 herein

community-based services for seniors, including but not limited to adult day care, personal care, respite, homemaker, chore, and transportation services designed to promote the independence of and to delay the use of institutional care by seniors with low and moderate incomes. At any time that moneys are appropriated, the department of elder affairs, in consultation with the senior living coordinating unit, shall disburse the funds to the area agencies on aging.

2. The department of elder affairs shall adopt rules, in consultation with the senior living coordinating unit and the area agencies on aging, pursuant to chapter 17A, to provide all of the following:

a. (1) The criteria and process for disbursement of funds, appropriated in accordance with subsection 1, to area agencies on aging.

(2) The criteria shall include, at a minimum, all of the following:

(a) A distribution formula that triple weights all of the following:

(i) Individuals seventy-five years of age and older.

(ii) Individuals aged sixty and older who are members of a racial minority.

(iii) Individuals sixty years of age and older who reside in rural areas as defined in the federal Older Americans Act.

(iv) Individuals who are sixty years of age and older who have incomes at or below the poverty level as defined in the federal Older Americans Act.

(b) A distribution formula that single weights individuals sixty years of age and older who do not meet the criteria specified in subparagraph subdivision (a).

b. The criteria for long-term care providers to receive funding as subcontractors of the area agencies on aging.

c. Other procedures the department of elder affairs deems necessary for the proper administration of this section, including but not limited to the submission of progress reports, on a bimonthly basis, to the senior living coordinating unit.

3. This section does not create an entitlement to any funds available for disbursement under this section and the department of elder affairs may only disburse moneys to the extent funds are available and, within its discretion, to the extent requests for funding are approved.

4. Long-term care providers that receive funding under this section shall submit annual reports to the appropriate area agency on aging. The department of elder affairs shall develop the report to be submitted, which shall include, but is not limited to, units of service provided, the number of service recipients, costs, and the number of units of service identified as necessitated but not provided.

5. The department of elder affairs, in cooperation with the department of human services, shall provide annual reports to the governor and the general assembly concerning the impact of moneys disbursed under this section on the availability of long-term care services in Iowa. The reports shall include the types of services funded, the outcome of those services, and the number of individuals receiving those services.

Sec. 8. NEW SECTION. 249H.8 PACE PROGRAM.

For the purposes of this chapter, all of the following apply to a PACE program:

1. A person operating a PACE program shall have a PACE program agreement with the health care financing administration of the United States department of health and human services, shall enter[4] a contract with the department of human services and shall comply with 42 U.S.C. § 1396(u)(4) and all regulations promulgated pursuant to that section.

2. Services provided under a PACE or pre-PACE program shall be provided on a capitated basis.

3. A pre-PACE program may contract with the department of human services to provide services to individuals eligible for medical assistance, on a capitated basis, for a limited scope of the PACE service package through a prepaid health plan agreement, with the remaining services reimbursed directly to the service providers by the medical assistance or federal Medicare programs.

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[4] See chapter 1232, §62 herein

4. PACE and pre-PACE programs are not subject to regulation under chapter 514B.

5. A PACE or pre-PACE program shall, at the time of entering into the initial contract and of renewal of a contract with the department of human services, demonstrate cash reserves in an amount established by rule of the department to cover expenses in the event of insolvency.

Sec. 9. NEW SECTION. 249H.9 SENIOR LIVING PROGRAM INFORMATION — ELECTRONIC ACCESS — EDUCATION — ADVISORY COUNCIL.

1. The department of elder affairs and the area agencies on aging, in consultation with the senior living coordinating unit, shall create, on a county basis, a database directory of all health care and support services available to seniors. The department of elder affairs shall make the database electronically available to the public, and shall update the database on at least a monthly basis.

2. The department of elder affairs shall seek foundation funding to develop and provide an educational program for individuals aged twenty-one and older which assists participants in planning for and financing health care services and other supports in their senior years.

3. The department of human services shall develop and distribute an informational packet to the public that explains, in layperson terms, the law, regulations, and rules under the medical assistance program relative to health care services options for seniors, including but not limited to those relating to transfer of assets, prepaid funeral expenses, and life insurance policies.

4. The director of human services, the director of the department of elder affairs, the director of public health, the director of the department of inspections and appeals, the director of revenue and finance, and the commissioner of insurance shall constitute a senior advisory council to provide oversight in the development and operation of all informational aspects of the senior living program under this section.

Sec. 10. NEW SECTION. 249H.10 CAREGIVER SUPPORT — ACCESS AND EDUCATION PROGRAMS.

The department of human services and the department of elder affairs, in consultation with the senior living coordinating unit, shall implement a caregiver support program to provide access to respite care and to provide education to caregivers in providing appropriate care to seniors and persons with disabilities. The program shall be provided through the area agencies on aging or other appropriate agencies.

Sec. 11. NEW SECTION. 249H.11 FUTURE REPEAL.

Section 249H.6 is repealed on June 30, 2005. However, grants awarded and moneys appropriated for grants on or before June 30, 2005, shall be disbursed to eligible applicants after that date if necessary.

DIVISION III
MISCELLANEOUS PROVISIONS

Sec. 12. NEW SECTION. 249A.18A RESIDENT ASSESSMENT.

A nursing facility as defined in section 135C.1 shall complete a resident assessment prior to initial admission of a resident and periodically during the resident's stay in the facility. The assessment shall be completed for each prospective resident and current resident regardless of payor source. The nursing facility may utilize the same resident assessment tool required for certification of the facility under the medical assistance and federal Medicare programs to comply with this section.

Sec. 13. Section 231.58, Code 1999, is amended to read as follows:

231.58 ~~LONG-TERM CARE~~ SENIOR LIVING COORDINATING UNIT.

1. A ~~long-term care~~ senior living coordinating unit is created within the department of elder affairs. The membership of the coordinating unit consists of:

a. The director of human services.
b. The director of the department of elder affairs.
c. The director of public health.
d. The director of the department of inspections and appeals.
e. Two members appointed by the governor.
f. Four members of the general assembly, as ex officio, nonvoting members.
2. The legislative members of the unit shall be appointed by the majority leader of the senate, after consultation with the president of the senate and the minority leader of the senate, and by the speaker of the house, after consultation with the majority leader and the minority leader of the house of representatives.
3. Nonlegislative 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. Legislative members shall receive compensation pursuant to section 2.12.
~~2.~~ 4. The ~~long-term care~~ senior living coordinating unit shall:
a. Develop, for legislative review, the mechanisms and procedures necessary to implement, utilizing current personnel, a case-managed system of long-term care based on a uniform comprehensive assessment tool.
b. Develop common intake and release procedures for the purpose of determining eligibility at one point of intake and determining eligibility for programs administered by the departments of human services, public health, and elder affairs, such as the medical assistance program, federal food stamp program, and homemaker-home health aide programs.
c. Develop common definitions for long-term care services.
d. Develop procedures for coordination at the local and state level among the providers of long-term care, including when possible co-campusing of services. The director of the department of general services shall give particular attention to this section when arranging for office space pursuant to section 18.12 for these three departments.
e. Prepare a long-range plan for the provision of long-term care services within the state.
f. Propose rules and procedures for the development of a comprehensive long-term care and community-based services program.
g. Submit a report of its activities to the governor and general assembly on January 15 of each year.
h. Provide direction and oversight for disbursement of moneys from the senior living trust fund created in section 249H.4.
i. Consult with the state universities and other institutions with expertise in the area of senior issues and long-term care.

Sec. 14. Section 231C.2, subsection 1, Code 1999, is amended to read as follows:
1. "Assisted living" means provision of housing with services which may include but are not limited to health-related care, personal care, and assistance with instrumental activities of daily living to six or more tenants in a physical structure which provides a homelike environment. "Assisted living" also includes encouragement of family involvement, tenant self-direction, and tenant participation in decisions that emphasize choice, dignity, privacy, individuality, shared risk, and independence. "Assisted living" ~~does not include~~ includes the provision of housing and assistance with instrumental activities of daily living ~~which does not also include provision of~~ only if personal care or health-related care is also included.

Sec. 15. SENIOR LIVING INSURANCE AND INCENTIVES INTERIM STUDY. The legislative council is requested to authorize a senior living insurance and incentives study committee to review current long-term care insurance laws, current long-term care insurance options available in the state, the types of services covered under a long-term care insurance option, and incentives for the purchase of long-term care insurance including, but not limited to, tax credits. The study committee shall include input from consumers, consumer advocates, the insurance industry, and the health care industry. The study committee shall submit a report of findings and recommendations to the governor and the general assembly on or before December 15, 2000.

Sec. 16. REIMBURSEMENT METHODOLOGY TASK FORCE — REPORT. The department of human services shall convene a task force consisting of the members of the senior living coordinating unit, representatives of the nursing facility industry, consumers and consumer advocates to develop a case-mix reimbursement methodology. The methodology developed shall include a limited number of levels of reimbursement. The task force shall submit a report of the reimbursement methodology developed to the governor and the general assembly on or before December 15, 2000. The department of human services shall also include in the report a summary of the expenditures for nursing facility conversion and for long-term care service development.

Sec. 17. RESIDENTIAL CARE FACILITIES — APPLICATION OF PROGRAM. The department of human services shall review and shall make recommendations to the general assembly on or before October 1, 2000, relating to the feasibility of applying the senior living program and any changes in the reimbursement methodology to residential care facilities.

Sec. 18. MAINTENANCE OF FISCAL EFFORT. The fiscal effort, existing on June 30, 2000, represented by appropriations made for long-term care services by the general assembly, shall be maintained and a reduction shall not be made in such appropriations to the department of human services or the department of elder affairs for those services as a result of this Act.

Sec. 19. DEPARTMENT OF ELDER AFFAIRS APPROPRIATION. There is appropriated from the senior living trust fund created in section 249H.4 in this Act to the department of elder affairs for the fiscal year beginning July 1, 2000, and ending June 30, 2001, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For the development of a comprehensive senior living program, including program administration and costs associated with implementation, salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 4,188,123

..... FTEs 7.00

The department of elder affairs may adopt emergency rules to carry out the provisions of this section.

Sec. 20. DEPARTMENT OF HUMAN SERVICES APPROPRIATION. There is appropriated from the senior living trust fund created in section 249H.4 in this Act to the department of human services for the fiscal year beginning July 1, 2000, and ending June 30, 2001, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. To provide grants to nursing facilities for conversion to assisted living programs or to provide long-term care alternatives and to provide grants to long-term care providers for development of long-term care alternatives:

..... $ 20,000,000

2. To supplement the medical assistance appropriation and to provide reimbursement for health care services and rent expenses to eligible persons through the home and community-based services waiver and the state supplementary assistance program, including program administration and data system costs associated with implementation, salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 2,240,034

..... FTEs 5.00

3. To implement nursing facility provider reimbursement at the seventieth percentile[5] and case-mix reimbursement methodology changes:

..... $ 17,750,000

[5] See chapter 1228, §39 herein

The department shall transfer these funds to supplement other appropriations to the department of human services to carry out the purposes of this subsection. The total amount expended by the department of human services in the fiscal year beginning July 1, 2000, and ending June 30, 2001, for nursing facility provider reimbursements under both the seventieth percentile and the case-mix reimbursement methodologies shall not exceed the amount appropriated in this subsection.

Sec. 21. EMERGENCY RULES.

1. The department of human services and the department of elder affairs may adopt emergency rules to implement this Act.

2. If the department of human services or the department of elder affairs adopts emergency rules under section 17A.4, subsection 2, and section 17A.5, subsection 2, paragraph "b", to implement this Act, the rules shall become effective immediately upon filing, unless a later effective date is 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.

Sec. 22. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

Sec. 23. RETROACTIVE APPLICABILITY. The section in this Act that creates section 249H.6[6] as it relates to receipt of federal funding, is retroactively applicable to October 1, 1999.

Approved March 1, 2000

CHAPTER 1005

LOW-SPEED VEHICLES

S.F. 2330

AN ACT relating to the regulation of certain low-speed vehicles and making a penalty applicable.

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

Section 1. Section 321.1, Code Supplement 1999, is amended by adding the following new subsection after subsection 36 and renumbering subsection 36A:

NEW SUBSECTION. 36A. "Low-speed vehicle" means a motor vehicle manufactured in compliance with the national highway and traffic safety administration standards for low-speed vehicles in 49 C.F.R. § 571.500. A low-speed vehicle which is in compliance with the equipment requirements in 49 C.F.R. § 571.500 shall be deemed to be in compliance with all equipment requirements of this chapter.

Sec. 2. Section 321.20, subsection 2, Code Supplement 1999, is amended to read as follows:

2. A description of the vehicle including, insofar as the ~~hereinafter~~ specified data may exist with respect to a given vehicle, the make, model, type of body, the number of cylinders, the type of motor fuel used, the serial number of the vehicle, manufacturer's identification number, the engine or other number of the vehicle and whether new or used and if a new vehicle the date of sale by the manufacturer or dealer to the person intending to operate such vehicle. If the vehicle is a new low-speed vehicle, the manufacturer's or importer's certificate

[6] See chapter 1232, §88, 95 herein

required to accompany the application under subsection 4 shall certify that the vehicle was manufactured in compliance with the national highway and traffic safety administration standards for low-speed vehicles in 49 C.F.R. § 571.500.

Sec. 3. Section 321.116, Code 1999, is amended to read as follows:

321.116 ELECTRIC AUTOMOBILES.

For an electric motor vehicle the annual fee is twenty-five dollars. However, if an electric motor vehicle is more than five model years old the annual registration fee is fifteen dollars. This section does not apply to low-speed vehicles that are electric.

Sec. 4. NEW SECTION. 321.381A OPERATION OF LOW-SPEED VEHICLES.

A low-speed vehicle shall not be operated on a street with a posted speed limit greater than thirty-five miles per hour. This section shall not prohibit a low-speed vehicle from crossing a street with a posted speed limit greater than thirty-five miles per hour.

Approved March 9, 2000

CHAPTER 1006

DISCONTINUANCE OF CITIES — PROCEDURES

S.F. 2091

AN ACT relating to procedures for discontinuance of a city.

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

Section 1. Section 368.3, Code 1999, is amended by adding the following new unnumbered paragraph after unnumbered paragraph 1:

NEW UNNUMBERED PARAGRAPH. A city may also be discontinued in accordance with the following procedures. The council shall adopt a resolution of intent to discontinue and shall call a public hearing on the proposal to discontinue. Notice of the time and place of the public hearing and the proposed action shall be published as provided in section 362.3, except that at least ten days' notice must be given. At the public hearing, the council shall receive oral and written comments regarding the proposal from any person. Thereafter, the council, at the same meeting or at a subsequent meeting, may pass a resolution of discontinuance or pass a resolution abandoning the proposal. If the council passes a resolution of discontinuance, a petition may be filed with the clerk in the manner provided in section 362.4, within thirty days following the effective date of the resolution, requesting that the question of discontinuance be submitted to the registered voters of the city. Upon receipt of a petition requesting an election, the council shall direct the county commissioner of elections to call a special election on the question of discontinuance or shall adopt a resolution abandoning the discontinuance. Notice of the election shall be given by publication as required in section 49.53. If a majority of those voting approve the discontinuance or if no petition for an election is filed, the clerk shall send a copy of the resolution of discontinuance and, if an election is held, the results of the election to the board. The board shall take control of the property of the discontinued city and shall supervise procedures necessary to carry out the discontinuance in accordance with section 368.21.

Approved March 14, 2000

CHAPTER 1007

WORKERS' COMPENSATION — NONRESIDENT EMPLOYERS — EARNINGS CALCULATION — LIEN AMOUNT APPROVAL

S.F. 2373

AN ACT relating to workers' compensation concerning service of notices on nonresident employers, the calculation of weekly earnings, and the approval of related liens.

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

Section 1. Section 85.3, subsection 2, Code 1999, is amended to read as follows:

2. Any employer who is a nonresident of ~~the~~ this state, for whom services are performed within ~~the~~ this state by ~~employees entitled to rights under this chapter, chapter 85A or chapter 85B~~ any employee, is deemed to be doing business in this state by virtue of having such services performed and the employer and employee shall be subject to the jurisdiction of the workers' compensation commissioner and to all of the provisions of this chapter, chapters 85A, 85B, 86, and 87, as to any and all personal injuries sustained by ~~an~~ the employee arising out of and in the course of such employment within this state. In addition, every corporation, individual, personal representative, partnership, or association that has the necessary minimum contact with this state shall be subject to the jurisdiction of the workers' compensation commissioner, and the workers' compensation commissioner shall hold such corporation, individual, personal representative, partnership, or association amenable to suit in this state in every case not contrary to the provisions of the Constitution of the United States.

3. Service of process or original notice upon a nonresident employer may be performed as provided in section 617.3 or as provided in the Iowa rules of civil procedure. In addition, service may be made on any corporation, individual, personal representative, partnership, or association that has the necessary minimum contact with this state as provided in rule of civil procedure 56.1 within or without this state or if such service cannot be made, in any manner consistent with due process of law prescribed by the workers' compensation commission.[1]

In addition to those persons authorized to receive personal service as in civil actions as permitted by chapter 17A and this chapter, such employer shall be deemed to have appointed the secretary of state of this state as its lawful attorney upon whom may be served or delivered any and all notices authorized or required by the provisions of this chapter, chapters 85A, 85B, 86, 87, and 17A, and to agree that any and all such services or deliveries of notice on the secretary of state shall be of the same legal force and validity as if personally served upon or delivered to such nonresident employer in this state.

This section does not limit or affect the right to serve an original notice upon any corporation, individual, personal representative, partnership, or association within or without this state in any manner otherwise permitted by statute or rule.

4. For purposes of this section, a nonresident employer is any employer that is not a resident of Iowa as defined in section 617.3.

Sec. 2. Section 85.36, subsection 6, Code 1999, is amended to read as follows:

6. In the case of an employee who is paid on a daily, or hourly basis, or by the output of the employee, the weekly earnings shall be computed by dividing by thirteen the earnings, not including overtime or premium pay, of ~~said~~ the employee earned in the employ of the employer in the last completed period of thirteen consecutive calendar weeks immediately preceding the injury. If the employee was absent from employment for reasons personal to the employee during part of the thirteen calendar weeks preceding the injury, the employee's weekly earnings shall be the amount the employee would have earned had the employee

[1] See chapter 1232, §46 herein

worked when work was available to other employees of the employer in a similar occupation. A week which does not fairly reflect the employee's customary earnings shall be replaced by the closest previous week with earnings that fairly represent the employee's customary earnings.

Sec. 3. Section 85.36, subsection 7, Code 1999, is amended to read as follows:

7. In the case of an employee who has been in the employ of the employer less than thirteen calendar weeks immediately preceding the injury, the employee's weekly earnings shall be computed under subsection 6, taking the earnings, not including overtime or premium pay, for such purpose to be the amount the employee would have earned had the employee been so employed by the employer the full thirteen calendar weeks immediately preceding the injury and had worked, when work was available to other employees in a similar occupation. If the earnings of other employees cannot be determined, the employee's weekly earnings shall be the average computed for the number of weeks the employee has been in the employ of the employer.

Sec. 4. Section 86.11, Code 1999, is amended to read as follows:

86.11 REPORTS OF INJURIES.

Every employer shall hereafter keep a record of all injuries, fatal or otherwise, alleged by an employee to have been sustained in the course of the employee's employment and resulting in incapacity for a longer period than one day. If the injury results only in temporary disability, causing incapacity for a longer period than three days ~~except as provided in section 86.36~~, then within four days thereafter, not counting Sundays and legal holidays, the employer or insurance carrier having had notice or knowledge of the occurrence of such injury and resulting disability, shall file a report with the workers' compensation commissioner in the form and manner required by the commissioner. If such injury to the employee results in permanent total disability, permanent partial disability or death, then the employer or insurance carrier upon notice or knowledge of the occurrence of the employment injury, shall file a report with the workers' compensation commissioner, within four days after having notice or knowledge of the permanent injury to the employee or the employee's death. The report to the workers' compensation commissioner of injury shall be without prejudice to the employer or insurance carrier and shall not be admitted in evidence or used in any trial or hearing before any court, the workers' compensation commissioner or a deputy workers' compensation commissioner except as to the notice under section 85.23.

Sec. 5. Section 86.39, Code 1999, is amended to read as follows:

86.39 FEES — APPROVAL ~~— LIEN~~.

All fees or claims for legal, medical, hospital, and burial services rendered under this chapter and chapters 85, 85A, 85B, and 87 are subject to the approval of the workers' compensation commissioner~~, and no lien for such service is enforceable without the approval of the amount of the lien by the workers' compensation commissioner~~. For services rendered in the district court and appellate courts, the attorney's fee is subject to the approval of a judge of the district court.

Sec. 6. Section 86.36, Code 1999, is repealed.

Approved March 16, 2000

CHAPTER 1008

NURSE LICENSURE COMPACT

H.F. 2105

AN ACT adopting the nurse licensure compact.

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

Section 1. Section 147.2, Code 1999, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. For purposes of this section, a person who is licensed in another state and recognized for licensure in this state pursuant to the nurse licensure compact contained in section 152E.1 shall be considered to have obtained a license to practice nursing from the department.

Sec. 2. Section 147.5, Code 1999, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. This section shall not apply to a person who is licensed in another state and recognized for licensure in this state pursuant to the nurse licensure compact contained in section 152E.1.

Sec. 3. Section 147.7, Code 1999, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. This section shall not apply to a person who is licensed in another state and recognized for licensure in this state pursuant to the nurse licensure compact contained in section 152E.1. A person licensed in another state and recognized for licensure in this state pursuant to the compact shall, however, maintain a copy of a license issued by the person's home state available for inspection when engaged in the practice of nursing in this state.

Sec. 4. Section 152.6, Code 1999, is amended to read as follows:

152.6 LICENSES — PROFESSIONAL ABBREVIATIONS.

The board may license a natural person to practice as a registered nurse or as a licensed practical nurse. However, only a person currently licensed as a registered nurse in this state may use that title and the abbreviation "RN" after the person's name and only a person currently licensed as a licensed practical nurse in this state may use that title and the abbreviation "LPN" after the person's name. For purposes of this section, "currently licensed" includes persons licensed in another state and recognized for licensure in this state pursuant to the nurse licensure compact contained in section 152E.1.

Sec. 5. Section 152.7, Code 1999, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. 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. A refusal to accept a change in a party state's qualifications for licensure may result in submitting the issue to an arbitration panel or in withdrawal from the compact, in[1] the discretion of the compact administrator.

Sec. 6. Section 152.8, Code 1999, is amended by striking the section and inserting in lieu thereof the following:

152.8 RECIPROCITY.

Notwithstanding the provisions of sections 147.44 through 147.54, the following shall apply regarding applicants for nurse licensure possessing a license from another state:

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[1] See chapter 1232, §50 herein

1. A license possessed by an applicant from a state which has not adopted the nurse licensure compact contained in section 152E.1 shall be recognized by the board under conditions specified which indicate that the licensee meets all the qualifications required under section 152.7. If a foreign license is recognized, the board may issue a license by endorsement without an examination being required. Recognition shall be based on whether the foreign licensee is qualified to practice nursing. The board may issue a temporary license to a natural person who has completed the requirements of and applied for licensure by endorsement. The board shall determine the length of time a temporary license shall remain effective.

2. A license possessed by an applicant and issued by a state which has adopted the nurse licensure compact contained in section 152E.1 shall be recognized pursuant to the provisions of that section.

Sec. 7. Section 152.10, subsection 2, paragraph d, Code 1999, is amended to read as follows:

d. (1) Having a license to practice nursing as a registered nurse or licensed practical nurse revoked or suspended, or having other disciplinary action taken by a licensing authority of another state, territory, or country. A certified copy of the record or order of suspension, revocation, or disciplinary action is prima facie evidence of such fact.

(2) Having a license to practice nursing as a registered nurse or licensed practical nurse revoked or suspended, or having other disciplinary action taken, by a licensing authority in another state which has adopted the nurse licensure compact contained in section 152E.1 and which has communicated information relating to such action pursuant to the coordinated licensure information system established by the compact. If the action taken by the licensing authority occurs in a jurisdiction which does not afford the procedural protections of chapter 17A, the licensee may object to the communicated information and shall be afforded the procedural protections of chapter 17A.

Sec. 8. NEW SECTION. 152E.1 FORM OF COMPACT.

The nurse licensure compact is entered into and enacted into law with all jurisdictions legally joining therein, in the form substantially as follows:

ARTICLE I — FINDINGS AND PURPOSE

a. The party states find all of the following:

1. The health and safety of the public are affected by the degree of compliance with and the effectiveness of enforcement activities related to state nurse licensure laws.

2. Violations of nurse licensure and other laws regulating the practice of nursing may result in injury or harm to the public.

3. The expanded mobility of nurses and the use of advanced communication technologies as part of our nation's health care delivery system require greater coordination and cooperation among states in the areas of nurse licensure and regulation.

4. New practice modalities and technology make compliance with individual state nurse licensure laws difficult and complex.

5. The current system of duplicative licensure for nurses practicing in multiple states is cumbersome and redundant to both nurses and states.

b. The general purposes of this compact are to:

1. Facilitate the states' responsibility to protect the public's health and safety.

2. Ensure and encourage the cooperation of party states in the areas of nurse licensure and regulation.

3. Facilitate the exchange of information between party states in the areas of nurse regulation, investigation, and adverse actions.

4. Promote compliance with the laws governing the practice of nursing in each jurisdiction.

5. Invest all party states with the authority to hold a nurse accountable for meeting all state practice laws in the state in which the patient is located at the time care is rendered through the mutual recognition of party state licenses.

ARTICLE II — DEFINITIONS

As used in this compact:

a. "Adverse action" means a home or remote state action.

b. "Alternative program" means a voluntary, nondisciplinary monitoring program approved by a nurse licensing board.

c. "Coordinated licensure information system" means an integrated process for collecting, storing, and sharing information on nurse licensure and enforcement activities related to nurse licensure laws, which is administered by a nonprofit organization composed of and controlled by state nurse licensing boards.

d. "Current significant investigative information" means either of the following:

1. Investigative information that a licensing board, after a preliminary inquiry that includes notification and an opportunity for the nurse to respond if required by state law, has reason to believe is not groundless and, if proved true, would indicate more than a minor infraction.

2. Investigative information that indicates that the nurse represents an immediate threat to public health and safety regardless of whether the nurse has been notified and had an opportunity to respond.

e. "Home state" means the party state which is the nurse's primary state of residence.

f. "Home state action" means any administrative, civil, equitable, or criminal action permitted by the home state's laws which are imposed on a nurse by the home state's licensing board or other authority, including actions against an individual's license such as revocation, suspension, probation, or any other action which affects a nurse's authorization to practice.

g. "Licensing board" means a party state's regulatory body responsible for issuing nurse licenses.

h. "Multistate licensure privilege" means current, official authority from a remote state permitting the practice of nursing as either a registered nurse or a licensed practical or vocational nurse in such party state. All party states have the authority, in accordance with existing state due process law, to take actions against the nurse's privilege such as revocation, suspension, probation, or any other action which affects a nurse's authorization to practice.

i. "Nurse" means a registered nurse or licensed practical or vocational nurse, as those terms are defined by each party's state practice laws.

j. "Party state" means any state that has adopted this compact.

k. "Remote state" means a party state, other than the home state, where either of the following applies:

1. Where the patient is located at the time nursing care is provided.

2. In the case of the practice of nursing not involving a patient, in such party state where the recipient of nursing practice is located.

l. "Remote state action" means either of the following:

1. Any administrative, civil, equitable, or criminal action permitted by a remote state's laws which are imposed on a nurse by the remote state's licensing board or other authority, including actions against an individual's multistate licensure privilege to practice in the remote state.

2. Cease and desist and other injunctive or equitable orders issued by remote states or the licensing boards' remote states.

m. "State" means a state, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

n. "State practice laws" means those individual party's state laws and regulations that govern the practice of nursing, define the scope of nursing practice, and create the methods and grounds for imposing discipline. "State practice laws" does not include the initial qualifications for licensure or requirements necessary to obtain and retain a license, except for qualifications or requirements of the home state.[2]

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[2] See chapter 1232, §51 herein

ARTICLE III — GENERAL PROVISIONS AND JURISDICTION

a. A license to practice registered nursing issued by a home state to a resident in that state will be recognized by each party state as authorizing a multistate licensure privilege to practice as a registered nurse in such party state. A license to practice licensed practical or vocational nursing issued by a home state to a resident in that state will be recognized by each party state as authorized a multistate licensure privilege to practice as a licensed practical or vocational nurse in such party state. In order to obtain or retain a license, an applicant must meet the home state's qualifications for licensure and license renewal as well as all other applicable state laws.

b. Party states may, in accordance with state due process laws, limit or revoke the multistate licensure privilege of any nurse to practice in their state and may take any other actions under their applicable state laws necessary to protect the health and safety of their citizens. If a party state takes such action, it shall promptly notify the administrator of the coordinated licensure information system. The administrator of the coordinated licensure information system shall promptly notify the home state of any such actions by remote states.

c. Every nurse practicing in a party state must comply with the state practice laws of the state in which the patient is located at the time care is rendered. In addition, the practice of nursing is not limited to patient care, but shall include all nursing practice as defined by the state practice laws of a party state. The practice of nursing subjects a nurse to the jurisdiction of the nurse licensing board and the courts, as well as the laws, in that party state.

d. This compact does not affect additional requirements imposed by states for advanced practice registered nursing. However, a multistate licensure privilege to practice registered nursing granted by a party state shall be recognized by other party states as a license to practice registered nursing if one is required by state law as a precondition for qualifying for advanced practice registered nurse authorization.

e. Individuals not residing in a party state shall continue to be able to apply for nurse licensure as provided for under the laws of each party state. However, the license granted to these individuals will not be recognized as granting the privilege to practice nursing in any other party state unless explicitly agreed to by that party state.[3]

ARTICLE IV — APPLICATIONS FOR LICENSURE IN A PARTY STATE

a. Upon application for a license, the licensing board in a party state shall ascertain, through the coordinated licensure information system, whether the applicant has ever held, or is the holder of, a license issued by any other state, whether there are any restrictions on the multistate licensure privilege, and whether any other adverse action by any state has been taken against the license.

b. A nurse in a party state shall hold licensure in only one party state at a time, issued by the home state.

c. A nurse who intends to change primary state of residence may apply for licensure in the new home state in advance of such change. However, new licenses will not be issued by a party state until after a nurse provides evidence of change in primary state of residence satisfactory to the new home state's licensing board.

d. 1. If a nurse changes primary state of residence by moving between two party states, and obtains a license from the new home state, the license from the former home state is no longer valid.

2. If a nurse changes primary state of residence by moving from a nonparty state to a party state, and obtains a license from the new home state, the individual state license issued by the nonparty state is not affected and will remain in full force if so provided by the laws of the nonparty state.

3. If a nurse changes primary state of residence by moving from a party state to a nonparty state, the license issued by the prior home state converts to an individual state license,

[3] See chapter 1232, §52 herein

valid only in the former home state, without the multistate licensure privilege to practice in other party states.[4]

ARTICLE V — ADVERSE ACTIONS

In addition to the general provisions described in article III, the following provisions apply:

a. The licensing board of a remote state shall promptly report to the administrator of the coordinated licensure information system any remote state actions, including the factual and legal basis for such action, if known. The licensing board of a remote state shall also promptly report any significant current investigative information yet to result in a remote state action. The administrator of the coordinated licensure information system shall promptly notify the home state of any such reports.

b. The licensing board of a party state shall have the authority to complete any pending investigations for a nurse who changes primary state of residence during the course of such investigations. It shall also have the authority to take appropriate action and shall promptly report the conclusions of such investigations to the administrator of the coordinated licensure information system. The administrator of the coordinated licensure information system shall promptly notify the new home state of any such actions.

c. A remote state may take adverse action affecting the multistate licensure privilege to practice within that party state. However, only the home state shall have the power to impose adverse action against the license issued by the home state.

d. For purposes of imposing adverse action, the licensing board of the home state shall give the same priority and effect to reported conduct received from a remote state as it would if such conduct had occurred within the home state. In so doing, it shall apply its own state laws to determine appropriate action.

e. The home state may take adverse action based on the factual findings of the remote state, so long as each state follows its own procedures for imposing such adverse action.

f. Nothing in this compact shall override a party state's decision that participation in an alternative program may be used in lieu of licensure action and that such participation shall remain nonpublic if required by the party state's laws. Party states must require nurses who enter any alternative programs to agree not to practice in any other party state during the term of the alternative program without prior authorization from such other party state.

ARTICLE VI — ADDITIONAL AUTHORITIES INVESTED IN PARTY STATE NURSE LICENSING BOARDS

Notwithstanding any other powers, party state nurse licensing boards shall have the authority to do all of the following:

a. If otherwise permitted by state law, recover from the affected nurse the costs of investigations and disposition of cases resulting from any adverse action taken against that nurse.

b. Issue subpoenas for both hearings and investigations which require the attendance and testimony of witnesses, and the production of evidence. Subpoenas issued by a nurse licensing board in a party state for the attendance and testimony of witnesses or the production of evidence from another party state shall be enforced in the latter state by any court of competent jurisdiction, according to the practice and procedure of that court applicable to subpoenas issued in proceedings pending before it. The issuing authority shall pay any witness fees, travel expenses, mileage, and other fees required by the service statutes of the state where the witnesses or evidence is located.

c. Issue cease and desist orders or limit or revoke a nurse's authority to practice in the nurse's state.[5]

d. Promulgate uniform rules and regulations as provided for in article VIII, section c.

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[4] See chapter 1232, §53 herein

[5] See chapter 1232, §54 herein

ARTICLE VII — COORDINATED LICENSURE INFORMATION SYSTEM

a. All party states shall participate in a cooperative effort to create a coordinated database of all licensed registered nurses and licensed practical or vocational nurses. This system will include information on the licensure and disciplinary history of each nurse, as contributed by party states, to assist in the coordination of nurse licensure and enforcement efforts.

b. Notwithstanding any other provision of law, all party states' licensing boards shall promptly report adverse actions, actions against multistate licensure privileges, any current significant investigative information yet to result in adverse action, denials of applications, and the reasons for such denials, to the coordinated licensure information system.

c. Current significant investigative information shall be transmitted through the coordinated licensure information system only to party state licensing boards.

d. Notwithstanding any other provision of law, all party states' licensing boards contributing information to the coordinated licensure information system may designate information that may not be shared with nonparty states or disclosed to other entities or individuals without the express permission of the contributing state.[6]

e. Any personally identifiable information obtained by a party state's licensing board from the coordinated licensure information system shall not be shared with nonparty states or disclosed to other entities or individuals except to the extent permitted by the laws of the party state contributing the information.

f. Any information contributed to the coordinated licensure information system that is subsequently required to be expunged by the laws of the party state contributing that information shall also be expunged from the coordinated licensure information system.

g. The compact administrators, acting jointly with each other and in consultation with the administrator of the coordinated licensure information system, shall formulate necessary and proper procedures for the identification, collection, and exchange of information under this compact.

ARTICLE VIII — COMPACT ADMINISTRATION AND INTERCHANGE OF INFORMATION

a. The head of the nurse licensing board, or the head's designee, of each party state shall be the administrator of this compact for the head's state.

b. The compact administrator of each party state shall furnish to the compact administrator of each other party state any information and documents including, but not limited to, a uniform data set of investigations, identifying information, licensure data, and disclosable alternative program participation information to facilitate the administration of this compact.

c. Compact administrators shall have the authority to develop uniform rules to facilitate and coordinate implementation of this compact. These uniform rules shall be adopted by party states, under the authority invested under article VI, section d.

ARTICLE IX — IMMUNITY

A party state or the officers or employees or agents of a party state's nurse licensing board who acts in accordance with the provisions of this compact shall not be liable on account of any act or omission in good faith while engaged in the performance of their duties under this compact. Good faith in this article shall not include willful misconduct, gross negligence, or recklessness.

ARTICLE X — ENTRY INTO FORCE, WITHDRAWAL, AND AMENDMENT

a. This compact shall enter into force and become effective as to any state when it has been enacted into the laws of that state. Any party state may withdraw from this compact by

[6] See chapter 1232, §55 herein

enacting a statute repealing the same, but such withdrawal shall not take effect until six months after the withdrawing state has given notice of the withdrawal to the executive heads of all other party states.

b. Withdrawal shall not affect the validity or applicability by the licensing boards of states remaining party to the compact of any report of adverse action occurring prior to the withdrawal.

c. This compact shall not be construed to invalidate or prevent any nurse licensure agreement or other cooperative arrangement between a party state and a nonparty state that is made in accordance with the other provisions of this compact.

d. This compact may be amended by the party states. An amendment to this compact shall not become effective and binding upon the party states unless and until it is enacted into the laws of all party states.

ARTICLE XI — CONSTRUCTION AND SEVERABILITY

a. This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence, or provision of this compact is declared to be contrary to the constitution of any party state or of the United States or the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any party state, the compact shall remain in full force and effect as to the remaining party states and in full force and effect as to the party state affected as to all severable matters.

b. 1. In the event party states find a need for settling disputes arising under this compact, the party states may submit the issues in dispute to an arbitration panel which shall be comprised of an individual appointed by the compact administrator in the home state, an individual appointed by the compact administrator in the remote state or states involved, and an individual mutually agreed upon by the compact administrators of all the party states involved in the dispute.

2. The decision of a majority of the arbitrators shall be final and binding.

Sec. 9. NEW SECTION. 152E.2 COMPACT ADMINISTRATOR.

The executive director of the board of nursing, as provided for in section 152.2, shall serve as the compact administrator identified in article VIII, section a, of the nurse licensure compact contained in section 152E.1.

Sec. 10. Section 272C.3, subsection 2, paragraph a, Code 1999, 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 147.55, 148.6, 148B.7, 152.10, 153.34, 154A.24, 169.13, 542B.21, 542C.21, 543B.29, 544A.13, 544B.15, or 602.3203 or chapter 151, 155, 507B or 522, 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. 11. Section 272C.4, subsection 6, Code 1999, is amended to read as follows:

6. Define by rule acts or omissions which are grounds for revocation or suspension of a license under section 147.55, 148.6, 148B.7, 152.10, 153.34, 154A.24, 169.13, 455B.191, 542B.21, 542C.21, 543B.29, 544A.13, 544B.15, or 602.3203 or chapter 151, 155, 507B or 522, as applicable, and to define by rule acts or omissions which 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. 12. Section 272C.5, subsection 2, paragraph c, Code 1999, 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 147.58 to 147.71, 148.6 to 148.9, 152.10 and 152.11, 153.23 to 153.30, 153.33, and 154A.23, 542B.22, 542C.23, 543B.35, 543B.36, 544B.16.

Sec. 13. Section 272C.6, subsection 4, unnumbered paragraph 1, Code 1999, is amended to read as follows:

In order to assure a free flow of information for accomplishing the purposes of this section, and notwithstanding section 622.10, all complaint files, investigation files, other investigation reports, and other investigative information in the possession of a licensing board or peer review committee acting under the authority of a licensing board or its employees or agents which relates to licensee discipline are privileged and confidential, and are not subject to discovery, subpoena, or other means of legal compulsion for their release to a person other than the licensee and the boards, their employees and agents involved in licensee discipline, and are not admissible in evidence in a judicial or administrative proceeding other than the proceeding involving licensee discipline. However, investigative information in the possession of a licensing board or its employees or agents which relates to licensee discipline may be disclosed to appropriate licensing authorities within this state, the appropriate licensing authority in another state, the coordinated licensure information system provided for in the nurse licensure compact contained in section 152E.1, the District of Columbia, or a territory or country in which the licensee is licensed or has applied for a license. If the investigative information in the possession of a licensing board or its employees or agents indicates a crime has been committed, the information shall be reported to the proper law enforcement agency. However, a final written decision and finding of fact of a licensing board in a disciplinary proceeding, including a decision referred to in section 272C.3, subsection 4, is a public record.

Approved March 16, 2000

CHAPTER 1009

EMERGENCY MEDICAL CARE PROVIDERS — AUTHORITY TO PROVIDE SERVICES

H.F. 2333

AN ACT relating to authorization to provide emergency and nonemergency medical care services.

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

Section 1. Section 147A.8, subsection 2, Code Supplement 1999, is amended to read as follows:

2. Function in any hospital or any other entity in which health care is ordinarily provided only when under the direct supervision, as defined by rules adopted pursuant to chapter 17A, of a physician, when:

a. Enrolled as a student or participating as a preceptor in a training program approved by the department; or

b. Fulfilling continuing education requirements as defined by rule; or

c. Employed by or assigned to a hospital or other entity in which health care is ordinarily provided only when under the direct supervision of a physician, as a member of an authorized ambulance, rescue, or first response service, or in an individual capacity, by rendering lifesaving services in the facility in which employed or assigned pursuant to the emergency medical care provider's certification and under the direct supervision of a physician, physician assistant, or registered nurse. An emergency medical care provider shall not routinely

function without the direct supervision of a physician, physician assistant, or registered nurse. However, when the physician, physician assistant, or registered nurse cannot directly assume emergency care of the patient, the emergency medical care provider may perform without direct supervision emergency medical care procedures for which that individual is certified if the life of the patient is in immediate danger and such care is required to preserve the patient's life; or

d. Employed by or assigned to a hospital or other entity in which health care is ordinarily provided only when under the direct supervision of a physician, as a member of an authorized ambulance, rescue, or first response service, or in an individual capacity, to perform nonlifesaving procedures for which those individuals have been trained and are designated in a written job description. Such procedures may be performed after the patient is observed by and when the emergency medical care provider is under the supervision of the physician, physician assistant, or registered nurse, including when the registered nurse is not acting in the capacity of a physician designee, and where the procedure may be immediately abandoned without risk to the patient.

Approved March 16, 2000

CHAPTER 1010

BEGINNING FARMER LOAN PROGRAM ELIGIBILITY

H.F. 2099

AN ACT affecting eligibility for the beginning farmer loan program, and providing an effective date.

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

Section 1. Section 175.2, subsection 12, Code 1999, is amended to read as follows:

12. "Low or moderate net worth" means:

a. For an individual, an aggregate net worth of the individual and the individual's spouse and minor children of less than ~~two~~ three hundred thousand dollars.

b. For a partnership, an aggregate net worth of all partners, including each partner's net capital in the partnership, and each partner's spouse and minor children of less than ~~four~~ six hundred thousand dollars. However, the aggregate net worth of each partner and that partner's spouse and minor children shall not exceed ~~two~~ three hundred thousand dollars.

c. For a family farm corporation, an aggregate net worth of all shareholders, including the value of each shareholder's share in the family farm corporation, and each shareholder's spouse and minor children of less than ~~four~~ six hundred thousand dollars. However, the aggregate net worth of each shareholder and that shareholder's spouse and minor children shall not exceed ~~two~~ three hundred thousand dollars.

d. For a family farm limited liability company, an aggregate net worth of all members, including each member's ownership interest in the family farm limited liability company, and each member's spouse and minor children of less than ~~four~~ six hundred thousand dollars. However, the aggregate net worth of each member and that member's spouse and minor children shall not exceed ~~two~~ three hundred thousand dollars.

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

Approved March 29, 2000

CHAPTER 1011

EMERGENCY MANAGEMENT COORDINATORS — APPOINTMENT

H.F. 2169

AN ACT relating to the appointment of emergency management coordinators.

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

Section 1. Section 331.321, subsection 1, paragraph a, Code 1999, is amended by striking the paragraph.

Approved March 29, 2000

CHAPTER 1012

INTESTATE SUCCESSION — GREAT-GRANDPARENTS, GREAT-AUNTS, GREAT-UNCLES, AND SECOND COUSINS

H.F. 2173

AN ACT providing for inheritance by great-grandparents, great-aunts and uncles, and second cousins of intestate decedents.

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

Section 1. Section 633.219, subsections 5 and 6, Code 1999, are amended to read as follows:

5. If there is no person to take under subsection 1, 2, 3, or 4 of this section, and the decedent is survived by one or more great-grandparents or issue of great-grandparents, the estate passes equally to each set of great-grandparents, or to their issue, if any survive, per stirpes.

6. If there is no person to take under subsection 1, 2, 3, ~~or~~ 4, or 5 of this section, the portion uninherited shall go to the issue of the deceased spouse of the intestate, per stirpes. If the intestate has had more than one spouse who died in lawful wedlock, it shall be equally divided between the issue, per stirpes, of those deceased spouses.

~~6.~~ 7. If there is no person who qualifies under either subsection 1, 2, 3, 4, ~~or~~ 5, or 6 of this section, the intestate property shall escheat to the state of Iowa.

Approved March 29, 2000

CHAPTER 1013

CERTIFIED SCHOOL TO CAREER PROGRAM

H.F. 2179

AN ACT relating to the certified school to career program.

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

Section 1. Section 15.362, subsections 1 and 2, Code 1999, are amended to read as follows:

1. "Certified school to career program" or "certified program" means a sequenced and articulated secondary and postsecondary program registered as an apprenticeship program under 29 C.F.R. subtit. A, pt. 29, which is conducted pursuant to an agreement as provided in section 15.364 or ~~a program approved by the state board of education, in conjunction with the department of economic development, as meeting~~ an individual program of study developed jointly by a secondary school, postsecondary institution, and an employer that meets the standards enumerated in section 15.363, that integrates a secondary school curriculum with private sector job training which places students in job internships, and which is designed to continue into postsecondary education and that will result in teaching new skills and adding value to the wage-earning potential of participants and increase their long-term employability in the state and which is conducted pursuant to an agreement as provided in section 15.364.

2. "Participant" means an individual between the ages of sixteen and twenty-four who is enrolled in a public or private secondary or postsecondary school and who initiated participation in a certified school to career program ~~as part of secondary~~ no later than the start of the student's senior year of high school ~~education~~.

Sec. 2. Section 15.363, unnumbered paragraphs 1 and 2, Code 1999, are amended to read as follows:

The state board of education~~, in consultation with the department of economic development,~~ shall adopt rules pursuant to chapter 17A to guide ~~the board and department~~ school districts in determining whether a potential school to career program ~~should be approved~~ meets the standards for certification.

A certified school to career program ~~which is approved by the state board of education in conjunction with the department of economic development~~ other than a sequenced and articulated secondary and postsecondary program registered as an apprenticeship program under 29 C.F.R. subtit. A, pt. 29, shall comply with all of the following standards:

Sec. 3. Section 15.363, Code 1999, is amended by adding the following new subsection:

NEW SUBSECTION. 6. The participant's high school agrees to file with the department of education an initial notice of intent to conduct a certified program, and shall include in the notice the name of the contact person charged with overseeing the school district's certified program. The participant's high school shall maintain on file the certified program agreement required by section 15.364.

Sec. 4. Section 15.364, subsections 2, 3, and 8, Code Supplement 1999, are amended to read as follows:

2. A description of the career field in which the participant is to be trained, and the beginning date and duration of the training and employment.

3. The employer's agreement to provide paid employment, at a base wage, for the participant ~~during the summer months after~~ beginning no earlier than the participant's junior ~~and senior years~~ year in high school and ending no later than the fall after the participant's ~~first~~ second year of postsecondary education.

8. If the participant does not complete the two-year employment obligation, the participant's agreement to repay to the employer the amount paid by the employer toward the participant's postsecondary education expenses pursuant to subsection 6. However, if the participant is unable to complete the two-year employment obligation because the employer did not afford the participant a two-year employment opportunity, the participant shall not be required to repay to the employer the amount paid by the employer toward the participant's postsecondary education expenses.

Approved March 29, 2000

CHAPTER 1014

PUBLIC INFORMATION REQUESTS — INTERNET PROTOCOL NUMBERS — CONFIDENTIALITY

H.F. 2220

AN ACT relating to the confidentiality of internet protocol numbers associated with public information requests.

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

Section 1. Section 22.7, Code Supplement 1999, is amended by adding the following new subsection:

NEW SUBSECTION. 39. The portion of a record request that contains an internet protocol number which identifies the computer from which a person requests a record, whether the person using such computer makes the request through the IowAccess network or directly to a lawful custodian. However, such record may be released with the express written consent of the person requesting the record.

Approved March 29, 2000

CHAPTER 1015

CITY HOSPITAL AND HEALTH CARE FACILITY BOARDS OF TRUSTEES — APPOINTMENT — TERMS

S.F. 2048

AN ACT providing for the appointment and length of terms for members added to a hospital board of trustees.

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

Section 1. Section 392.6, unnumbered paragraph 2, Code Supplement 1999, is amended to read as follows:

Cities maintaining an institution as provided for in this section which have a board of trustees consisting of three or five members may by ordinance increase the number of members to five or seven ~~and~~. The ordinance shall provide for the immediate appointment of ~~one additional member in the expansion to a five-member board or two additional members~~

~~in the expansion to a seven-member board~~ the additional members necessary to establish a five-member or seven-member board and shall provide that, of the additional members added to the board by appointment, one-half of the additional members added shall serve until the next succeeding general or city election, and ~~for the appointment of the one or two other~~ the remaining additional members shall serve until the second succeeding general or city election. The ordinance shall also provide that the determination of which election an appointed additional member shall be required to seek election be determined by lot. Thereafter, the terms of office of such additional members shall be four years. However, if a city has adopted an ordinance which increases the number of members of the board of trustees to five or seven members and the terms of office of four of the five members or six of the seven members end in the same year, the date of expiration of the term of one of the four members or two of the six members, to be determined by lot, shall be extended by an additional two years.

Approved March 29, 2000

CHAPTER 1016

MOTOR VEHICLE REGULATION — MISCELLANEOUS PROVISIONS

S.F. 2147

AN ACT relating to motor vehicles, including motor vehicle enforcement, titling, and registration, the renewal of certain licenses related to selling vehicles, and motor carrier regulation, making penalties applicable, and providing effective dates.

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

DIVISION I
MOTOR VEHICLE REGISTRATION AND TITLING, DEALER LICENSING, AND MOTOR VEHICLE AND MOTOR CARRIER ENFORCEMENT

Section 1. Section 321.1, Code Supplement 1999, is amended by adding the following new subsection:

NEW SUBSECTION. 83A. "Towing or recovery vehicle" means a motor vehicle equipped with booms, winches, slings, or wheel lifts used to tow, recover, or transport other motor vehicles.

Sec. 2. Section 321.20A, subsection 1, Code 1999, is amended to read as follows:

1. Notwithstanding other provisions of this chapter, the owner of a commercial vehicle subject to the proportional registration provisions of chapter 326, may make application to the department for a certificate of title. The application for certificate of title shall be made within ~~fifteen~~ thirty days of purchase or transfer and accompanied by a ten dollar title fee and appropriate use tax.

Sec. 3. Section 321.25, unnumbered paragraph 1, Code Supplement 1999, is amended to read as follows:

A vehicle may be operated upon the highways of this state without registration plates for a period of forty-five days after the date of delivery of the vehicle to the purchaser from a dealer if a card bearing the words "registration applied for" is attached on the rear of the vehicle. The card shall have plainly stamped or stenciled the registration number of the dealer from whom the vehicle was purchased and the date of delivery of the vehicle. In addition, a dealer licensed to sell new motor vehicles may attach the card to a new motor

vehicle delivered by the dealer to the purchaser even if the vehicle was purchased from an out-of-state dealer and the card shall bear the registration number of the dealer that delivered the vehicle. A dealer shall not issue a card to a person known to the dealer to be in possession of registration plates which may be attached to the vehicle. A dealer shall not issue a card unless an application for registration and certificate of title has been made by the purchaser and a receipt issued to the purchaser of the vehicle showing the fee paid by the person making the application. Dealers' records shall indicate the agency to which the fee is sent and the date the fee is sent. The dealer shall forward the application by the purchaser to the county treasurer or state office within ~~fifteen~~ thirty calendar days from the date of delivery of the vehicle. However, if the vehicle is subject to a security interest and has been offered for sale pursuant to section 321.48, subsection 1, the dealer shall forward the application by the purchaser to the county treasurer or state office within thirty calendar days from the date of the delivery of the vehicle to the purchaser.

Sec. 4. Section 321.30, subsection 13, unnumbered paragraph 2, Code Supplement 1999, is amended to read as follows:

The department or the county treasurer shall also refuse registration of a vehicle 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 4 1, paragraph "d", or section 321.101A, until the fees are paid together with any accrued penalties.

Sec. 5. Section 321.30, Code Supplement 1999, is amended by adding the following new subsection:

NEW SUBSECTION. 14. The department or the county treasurer shall refuse registration of a vehicle if 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.

Sec. 6. Section 321.46, subsection 1, Code Supplement 1999, is amended to read as follows:

1. The transferee shall within ~~fifteen~~ thirty calendar days after purchase or transfer apply for and obtain from the county treasurer of the person's residence, or if a nonresident, the county treasurer of the county where the primary users of the vehicle are located or the county where all other vehicles owned by the nonresident are registered, a new registration and a new certificate of title for the vehicle except as provided in section 321.25 or 321.48. The transferee shall present with the application the certificate of title endorsed and assigned by the previous owner and shall indicate the name of the county in which the vehicle was last registered and the registration expiration date. The transferee shall be required to list a driver's license number.

Sec. 7. Section 321.50, subsection 4, unnumbered paragraph 2, Code Supplement 1999, is amended to read as follows:

~~If a title is presented for transfer, and the~~ If a lien has been released by the lienholder but has not been sent to the county of record for clearance of the lien, ~~the~~ any county ~~of transfer~~ may note the release on the face of the title and shall notify the county of record that the lien has been released as of the specified date, and shall make entry upon the computer system~~, and shall proceed to transfer the title~~. Notification to the county of record shall be made by an automated statewide system, or by sending a photocopy of the released title to the county of record.

Sec. 8. Section 321.52, subsection 2, Code 1999, is amended to read as follows:

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

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

Sec. 9. Section 321.52, subsection 4, paragraph a, Code 1999, 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 ~~fifteen~~ 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 a salvage certificate of title to any person. A vehicle on which ownership has transferred to an insurer of the vehicle, as a result of a settlement with the owner of the vehicle arising out of damage to, or unrecovered theft of the vehicle, shall be deemed to be a wrecked or salvage vehicle and the insurer shall comply with this subsection to obtain a salvage certificate of title within ~~fifteen~~ thirty days after the date of assignment of the certificate of title of the vehicle.

Sec. 10. Section 321.58, Code 1999, is amended to read as follows:

321.58 APPLICATION.

All dealers, transporters, new motor vehicle wholesalers licensed under chapter 322, and mobile home dealers licensed under chapter 322B, upon payment of a fee of seventy dollars for two years, one hundred forty dollars for four years, or two hundred ten dollars for six years, may make application to the department upon the appropriate form for a certificate containing a general distinguishing number and for one or more special plates as appropriate to various types of vehicles subject to registration. The applicant shall also submit proof of the applicant's status as a bona fide transporter, new motor vehicle wholesaler licensed under chapter 322, mobile home dealer licensed under chapter 322B, or dealer, as reasonably required by the department. Dealers in new vehicles shall furnish satisfactory evidence of a valid franchise with the manufacturer of the vehicles authorizing the dealership. ~~A dealer licensed as a wholesaler for a new motor vehicle model pursuant to chapter 322, shall furnish satisfactory evidence of valid written authorization from the manufacturer of the new motor vehicle of the dealer's status as a wholesaler of the new motor vehicle model.~~

Sec. 11. Section 321.89, subsection 4, unnumbered paragraph 1, Code 1999, is amended to read as follows:

If an abandoned vehicle has not been reclaimed as provided for in subsection 3, the police authority or private entity shall make a determination as to whether or not the vehicle shall

be sold for use upon the highways. If the vehicle is not sold for use upon the highways, it shall be sold for junk, or demolished and sold as scrap. The police authority or private entity shall sell the vehicle at public auction. Notwithstanding any other provision of this section, a police authority or private entity, which has taken into possession any abandoned vehicle which lacks an engine, two or more wheels, another part which renders the vehicle totally inoperable, or which has a fair market value of less than five hundred dollars as determined by the police authority or private entity, may dispose of the vehicle to a demolisher for junk without public auction after complying with the notification procedures in subsection 3. The purchaser of the vehicle takes title free and clear of all liens and claims of ownership, shall receive a sales receipt from the police authority or private entity, and is entitled to register the vehicle and receive a certificate of title if sold for use upon the highways. If the vehicle is sold or disposed of to a demolisher for junk, the demolisher shall make application for a junking certificate to the county treasurer within ~~fifteen~~ thirty days of purchase and shall surrender the sales receipt in lieu of the certificate of title.

Sec. 12. Section 321.101, Code Supplement 1999, is amended to read as follows:

321.101 SUSPENSION OR REVOCATION OF REGISTRATION OR CANCELLATION OF CERTIFICATE OF TITLE BY DEPARTMENT.

1. The department is hereby authorized to suspend or revoke the registration of a vehicle, registration card, registration plate, or any nonresident or other permit in any of the following events:

~~1.~~ a. When the department is satisfied that such registration card, plate, or permit was fraudulently or erroneously issued.

~~2.~~ b. When the department determines that a registered vehicle is mechanically unfit or unsafe to be operated or moved upon the highways.

~~3.~~ c. When a registered vehicle has been dismantled or wrecked.

~~4.~~ d. When the department determines that the required fee has not been paid and the ~~same~~ fee is not paid upon reasonable notice and demand.

~~5.~~ e. When a registration card, registration plate, or permit is knowingly displayed upon a vehicle other than the one for which issued.

~~6.~~ f. When the department determines that the owner has committed any offense under this chapter involving the registration card, plate, or permit to be suspended or revoked.

~~7.~~ g. When the department is so authorized under any other provision of law.

h. 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.

~~8.~~ 2. The department shall cancel a certificate of title that appears to have been improperly issued or fraudulently obtained or in the case of a mobile home or manufactured housing, if taxes were owing under chapter 435 at the time the certificate was issued and have not been paid. However, before the certificate to a mobile home or manufactured housing ~~where~~ for which taxes were owing can be canceled, notice and opportunity to pay the taxes must be given to the person to whom the certificate was issued. Upon cancellation of any certificate of title the department shall notify the county treasurer who issued it, who shall enter the cancellation upon the records. The department shall also notify the person to whom the certificate of title was issued, as well as any lienholders appearing ~~thereon~~ on the certificate of title, of the cancellation and shall demand the surrender of the certificate of title, but the cancellation shall not affect the validity of any lien noted ~~thereon~~ on the certificate of title.

~~9. 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.~~

~~10.~~ 3. Notice of suspension or revocation of the registration of a vehicle, registration card, registration plate, or any nonresident or other permit under the terms of this section shall be by personal delivery of ~~said~~ the notice to the person to be so notified or by certified mail addressed to ~~such~~ the person at the person's address as shown on the registration record. ~~No~~ A return acknowledgment ~~shall be~~ is not necessary to prove such latter service.

If a vehicle, for which the registration has been suspended or revoked pursuant to subsection ~~4 of this section~~ 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 and 5, shall not be applicable to such vehicle for the failure of the previous owner to pay the required fees.

Sec. 13. NEW SECTION. 321.101A REVOCATION OF REGISTRATION BY COUNTY TREASURER.

The county treasurer may revoke the registration and registration plates of a vehicle if the registration fees are paid by check and the check is not honored by the payer's financial institution upon reasonable notice and demand. The owner of the vehicle or person in possession of the registration and registration plates for the vehicle shall immediately return the revoked registration and registration plates to the appropriate county treasurer's office.

Sec. 14. Section 321.123, subsection 2, Code Supplement 1999, is amended by striking the subsection.

Sec. 15. Section 321.454, Code 1999, is amended to read as follows:

321.454 WIDTH OF VEHICLES.

The total outside width of ~~any~~ a vehicle or the load on the vehicle shall not exceed ~~eight feet except that a motor home, commercial motor vehicle, motor truck or trailer hauling grain or livestock, travel trailer, fifth-wheel travel trailer, or bus having a total outside width not exceeding~~ eight feet six inches~~, exclusive of safety equipment, is exempt from the permit requirements of chapter 321E and may be operated on the public highways of the state~~. This limitation on the total outside width of a vehicle or the load on the vehicle does not include safety equipment on a vehicle or incidental appurtenances or retracted awnings on motor homes, travel trailers, or fifth-wheel travel trailers if the incidental appurtenance or retracted awning is less than six inches in width. However, if hay, straw, or stover is moved on ~~any~~ an implement of husbandry and the total width of load of the implement of husbandry exceeds eight feet ~~in width~~ six inches, the implement of husbandry is not subject to the permit requirements of chapter 321E. If hay, straw, or stover is moved on any other vehicle subject to registration, the moves are subject to the permit requirements for transporting loads exceeding eight feet six inches in width as required under chapter 321E.

Sec. 16. Section 321.457, subsection 2, paragraph f, Code 1999, is amended to read as follows:

f. A trailer or semitrailer, laden or unladen, shall not have an overall length in excess of fifty-three feet when operating in a truck tractor-semitrailer combination exclusive of retractable extensions used to support the load. However, when a trailer or semitrailer is used exclusively for the transportation of passenger vehicles, light delivery trucks, panel delivery trucks, pickup trucks, recreational vehicle chassis, or boats, the load carried on the trailer or semitrailer may extend up to three feet beyond the front bumper and up to four feet beyond the rear bumper of the trailer or semitrailer. A lowboy semitrailer, laden, or unladen, which is designed and exclusively used for the transportation of construction equipment shall not have an overall length in excess of fifty-seven feet when used in a truck tractor-semitrailer combination.

Sec. 17. Section 321.463, subsection 10, Code Supplement 1999, is amended to read as follows:

10. a. A person who operates a vehicle in violation of ~~the provisions of~~ this section, and an owner, or any other person, employing or otherwise directing the operator of a vehicle, who requires or knowingly permits the operation of a vehicle in violation of ~~the provisions of~~ this section shall be fined according to the following schedule:

AXLE, TANDEM AXLE,
AND GROUP OF AXLES
WEIGHT VIOLATIONS

Pounds Overloaded	Amount of Fine
Up to and including 1,000 pounds	~~$10 plus one-half cent per pound~~ $12
Over 1,000 pounds up to and including 2,000 pounds	~~$15 plus one-half cent per pound~~ $22
Over 2,000 pounds up to and including 3,000 pounds	~~$80 plus three cents per pound~~ $155
Over 3,000 pounds up to and including 4,000 pounds	~~$100 plus four cents per pound~~ $240
Over 4,000 pounds up to and including 5,000 pounds	~~$150 plus five cents per pound~~ $375
Over 5,000 pounds up to and including 6,000 pounds	~~$200 plus seven cents per pound~~ $585
Over 6,000 pounds up to and including 7,000 pounds	~~$200 plus ten cents per pound~~ $850
Over 7,000 pounds up to and including 8,000 pounds	$950
Over 8,000 pounds up to and including 9,000 pounds	$1,050
Over 9,000 pounds up to and including 10,000 pounds	$1,150
Over 10,000 pounds up to and including 11,000 pounds	$1,300
Over 11,000 pounds up to and including 12,000 pounds	$1,400
Over 12,000 pounds up to and including 13,000 pounds	$1,500
Over 13,000 pounds up to and including 14,000 pounds	$1,600
Over 14,000 pounds up to and including 15,000 pounds	$1,700
Over 15,000 pounds up to and including 16,000 pounds	$1,800
Over 16,000 pounds up to and including 17,000 pounds	$1,900
Over 17,000 pounds up to and including 18,000 pounds	$2,000
Over 18,000 pounds up to and including 19,000 pounds	$2,100
Over 19,000 pounds up to and including 20,000 pounds	$2,200
Over 20,000 pounds	$2,200 plus ten cents per pound in excess of 20,000 pounds

b. Fines for gross weight violations for vehicles or combinations of vehicles shall be assessed at one-half of the fine rate schedule for axle, tandem axle, and groups of axles weight violations.

c. Except as otherwise provided, the amount of the fine to be assessed shall be computed on the difference between the actual weight and the maximum legal weight specified in this section ~~by applying the appropriate rate in the preceding schedule for the total amount of overload~~.

d. The schedule of fines may be assessed in addition to any other penalties provided for in this chapter.

Sec. 18. Section 321F.4, subsection 2, Code 1999, is amended to read as follows:

2. A license is valid for two years, four years, or six years and expires on the last day of the last month of the two-year, four-year, or six-year period, as applicable. 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. 19. Section 321H.4, subsection 2, unnumbered paragraph 1, Code 1999, is amended to read as follows:

Application for a license as an authorized vehicle recycler shall be made to the department on forms provided by the department. The application shall be accompanied by a fee of seventy dollars for a two-year license, one hundred forty dollars for a four-year license, or two hundred ten dollars for a six-year license. The license shall be approved or disapproved within thirty days after application for the license. A license is valid for two years, four years, or six years and expires on the last day of the last month of the two-year, four-year, or six-year period, as applicable. A licensee shall have the month of expiration and the month after the month of expiration to renew the license. A person who fails to renew a license by the end of this time period and desires to hold a license shall file a new license application and pay the required fee. A separate license shall be obtained for each county in which an applicant conducts operations.

Sec. 20. Section 322.7, subsection 4, Code 1999, 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 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. 21. Section 322.29, unnumbered paragraphs 1 and 4, Code 1999, are amended to read as follows:

Application for license shall be made to the department by a manufacturer, distributor, or wholesaler, in a form and containing information as the department requires and shall be accompanied by the required license fee. ~~Licenses~~ The license shall be granted or refused within thirty days after application, and shall expire, unless sooner revoked or suspended, on December 31 of the calendar year for which ~~they are~~ it is granted. A licensee shall have the month of December of the calendar year for which the license was granted and the following month of January to renew the license. A person who fails to renew a license by the end of this time period and desires to hold a license shall file a new license application and pay the required fee.

~~A~~ Upon payment of the license fee as provided in this section, a person who rebuilds new completed motor vehicles by fabricating, altering, adding, or replacing essential parts, components, or equipment for the purpose of building an ambulance, rescue vehicle, ~~or~~ fire vehicle, or towing or recovery vehicle as defined in chapter 321 may be issued a license as a wholesaler of new motor vehicles of the make and model rebuilt without written authorization from the manufacturer.

Sec. 22. Section 322.29, Code 1999, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Upon payment of the license fee as provided in this section, a person who installs cranes, hook loaders, buckets, aerial ladders, or tanks on new completed motor trucks with a gross vehicle weight rating of nineteen thousand pounds or

more may be issued a license as a wholesaler of new motor vehicles of the make and model on which the equipment is installed without written authorization from the manufacturer.

Sec. 23. Section 322B.4, Code 1999, is amended to read as follows:

322B.4 LICENSE APPLICATION AND FEES.

Upon application and payment of a thirty-five dollar fee, a person may be licensed as a manufacturer or distributor of mobile homes. The application shall be in the form and shall contain information as the department prescribes. The license shall be granted or refused within thirty days after application. The license expires, unless sooner revoked or suspended by the department, on December 31 of the calendar year for which the license was granted. A licensee shall have the month of December of the calendar year for which the license was granted and the following month of January to renew the license. A person who fails to renew a license by the end of this time period and desires to hold a license shall file a new license application and pay the required fee.

Sec. 24. Section 322C.2, subsection 12, Code 1999, is amended to read as follows:

12. "Travel trailer" means a vehicle without motive power used or so manufactured or constructed as to permit its being used as a conveyance upon the public streets and highways and designed to permit the vehicle to be used as a place of human habitation by one or more persons. The vehicle may be up to eight feet six inches in width and its overall length shall not exceed forty feet.

Sec. 25. Section 322C.4, subsection 2, Code 1999, is amended to read as follows:

2. The license shall be granted or refused within thirty days after application. A license is valid for a two-year, four-year, or six-year period and expires, unless revoked or suspended by the department, on the last day of the last month of the two-year, four-year, or six-year period, as applicable. A licensee shall have the month of expiration and the month after the month of expiration to renew the license. A person who fails to renew a license by the end of this time period and desires to hold a license shall file a new license application and pay the required fee. A separate license shall be obtained for each county in which an applicant does business as a travel trailer dealer.

Sec. 26. Section 322C.9, subsection 1, Code 1999, is amended to read as follows:

1. Upon application and payment of a thirty-five-dollar fee, a person may be licensed as a manufacturer or distributor of travel trailers. The application shall be in the form and shall contain information as the department prescribes. The license shall be granted or refused within thirty days after application. The license expires, unless sooner revoked or suspended by the department, on December 31 of the calendar year for which the license was granted. A licensee shall have the month of December of the calendar year for which the license was granted and the following month of January to renew the license. A person who fails to renew a license by the end of this time period and desires to hold a license shall file a new license application and pay the required fee.

Sec. 27. Section 325A.3, Code 1999, is amended by adding the following new subsection:

NEW SUBSECTION. 5. A motor carrier shall keep a permit or certificate issued to the motor carrier under this section, or a copy of such permit or certificate, in the vehicle being operated by the motor carrier and shall show the permit or certificate, or copy thereof, to any peace officer upon request.

Sec. 28. Section 805.8, subsection 2, paragraph ag, Code Supplement 1999, is amended to read as follows:

ag. For violation of section 325A.3, subsection 5, or section 325A.8, the scheduled fine is fifty dollars. For violation of chapter 325A, other than a violation of section 325A.3, subsection 5, or section 325A.8, the scheduled fine is two hundred fifty dollars.

Sec. 29. EFFECTIVE DATE. The amendment to section 321.457, subsection 2, in this division of this Act, being deemed of immediate importance, takes effect upon enactment.

DIVISION II
MOTOR CARRIER AUTHORITY

Sec. 30. Section 325A.2, subsection 2, Code 1999, is amended to read as follows:
2. A local authority, as defined in section 321.1, shall not impose any regulations, including special registration or inspection requirements, upon the operation of motor carriers that are more restrictive than any of the provisions of this chapter, or section 321.449 or 321.450.

Sec. 31. Section 325A.3, subsection 2, paragraph g, Code 1999, is amended by striking the paragraph.

Sec. 32. Section 325A.3, Code 1999, is amended by adding the following new subsection:
NEW SUBSECTION. 6. The department may deny issuance of a permit or certificate if the department determines that evidence exists showing that the motor carrier cannot comply with the requirements of this chapter or the rules adopted pursuant to this chapter, including safety regulations and financial fitness and insurance requirements.

Sec. 33. Section 325A.13, subsection 1, Code 1999, is amended to read as follows:
1. It is unlawful for a charter carrier to transport passengers by motor vehicle for hire from any ~~point or~~ place in this state to another place in this state irrespective of the route or highway traversed, without first having obtained a charter passenger certificate from the department ~~a certificate declaring that public convenience and necessity require the operation~~.

Sec. 34. Section 325A.13, subsection 2, paragraphs a and f, Code 1999, are amended to read as follows:
a. It is unlawful for a regular-route motor carrier of passengers to transport passengers for hire upon the highways of this state in intrastate commerce without first having obtained from the department a regular-route passenger certificate. The department shall issue a regular-route passenger certificate ~~without hearing~~, if the department finds that the applicant is fit, willing, and able.
f. A regular-route motor carrier of passengers shall not operate as a charter carrier in this state unless it possesses a charter passenger certificate ~~of convenience and necessity to engage in the business of a charter carrier~~.

Sec. 35. Section 325A.13, subsection 2, Code 1999, is amended by adding the following new paragraph after paragraph f:
NEW PARAGRAPH. ff. A charter carrier shall not operate as a regular-route passenger carrier in this state unless it possesses a regular-route passenger certificate.

Sec. 36. Section 325A.16, Code 1999, is amended by striking the section and inserting in lieu thereof the following:
325A.16 HEARINGS.
A person whose application for a permit or certificate under this chapter has been denied, or whose permit or certificate has been suspended, may contest the decision under chapter 17A and in accordance with rules adopted by the department. The request for a hearing shall be in writing to the director of the division of motor carrier services, state department of transportation, at its office in the capital city's metropolitan area.

Sec. 37. Section 325A.21, Code 1999, is amended to read as follows:
325A.21 TRANSFERABILITY OF REGULAR-ROUTE CERTIFICATE.
~~1. A certificate of convenience and necessity shall not be sold, transferred, leased, or assigned and a contract or agreement with reference to or affecting a certificate shall not be~~

~~entered into without the written approval of the department. The department may request the department of inspections and appeals to hold a hearing regarding the transfer of the certificate. The state department of transportation shall approve the sale, transfer, lease, or assignment upon a finding by the department of inspections and appeals that there has been continuous service under the certificate for at least ninety days prior to the transfer, that the transferee is fit, willing, and able to perform the operations authorized by the certificate, and that the transfer is consistent with the public interest. Pending determination of an application filed with the department for approval of a sale, transfer, lease, or assignment, the department may grant temporary approval of the proposed operation upon a finding of good cause.~~

~~2.~~ A regular-route passenger certificate shall not be sold, transferred, leased, or assigned without the approval of the department. The department shall approve the sale, transfer, lease, or assignment if the person obtaining or seeking to obtain ownership or control of a certificate is found to be fit, willing, and able to perform the service proposed. In determining the fitness of the person seeking transfer of the certificate, the department shall consider only the person's compliance with safety, financial fitness, and insurance requirements.

Sec. 38. Sections 325A.14, 325A.15, 325A.17, 325A.18, 325A.19, and 325A.20, Code 1999, are repealed.

DIVISION III
MOTOR VEHICLE REGISTRATION AND TITLING SYSTEM

Sec. 39. Section 321.20, subsection 1, Code Supplement 1999, is amended to read as follows:

1. The full legal name; social security number or, if the owner does not have a social security number but has a passport, the passport number; driver's license number, whether the license was issued by this state, another state, another country, or is an international driver's license; date of birth; bona fide residence; and mailing address of the owner and of the lessee if the vehicle is being leased. If the owner or lessee is a firm, association, or corporation, the application shall contain the business address and federal employer identification number of the owner or lessee. Up to three owners' names may be listed on the application. Information relating to the lessee of a vehicle shall not be required on an application for registration and a certificate of title for a vehicle with a gross vehicle weight rating of twenty-six[1] thousand pounds or more.

Sec. 40. Section 321.20, Code Supplement 1999, is amended by adding the following new subsection:

NEW SUBSECTION. 6. If the vehicle is owned by a nonresident but is subject to issuance of an Iowa certificate of title or registration, the application shall also contain the full legal name; social security number, or, if the primary user does not have a social security number but has a passport, the passport number; driver's license number, whether the license was issued by this state, another state, another country, or is an international driver's license; date of birth; bona fide residence; and mailing address of the primary user of the vehicle. If the primary user is a firm, association, or corporation, the application shall contain the business address and federal employer identification number of the primary user. The primary user's name and address shall not be printed on the registration receipt or the certificate of title.

Sec. 41. Section 321.20, Code Supplement 1999, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The department shall adopt rules on the method for providing signatures for applications made by electronic means.

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[1] See chapter 1134, §1 herein

Sec. 42. Section 321.24, unnumbered paragraphs 1, 3, and 6, Code Supplement 1999, are amended to read as follows:

Upon receipt of the application for title and payment of the required fees for a motor vehicle, trailer, or semitrailer, the county treasurer or the department shall, when satisfied as to the application's genuineness and regularity, and, in the case of a mobile home or manufactured housing, that taxes are not owing under chapter 435, issue a certificate of title and, except for a mobile home or manufactured housing, a registration receipt, and shall file the application, the manufacturer's or importer's certificate, the certificate of title, or other evidence of ownership, as prescribed by the department. The registration receipt shall be delivered to the owner and shall contain upon its face the date issued, the name and address of the owner, the registration number assigned to the vehicle, ~~the title number assigned to the owner of the vehicle,~~ the amount of the fee paid, the amount of tax paid pursuant to section 423.7, the type of fuel used, and a description of the vehicle as determined by the department, and upon the reverse side a form for notice of transfer of the vehicle. The name and address of any lessee of the vehicle shall not be printed on the registration receipt or certificate of title. Up to three owners may be listed on the registration receipt and certificate of title.

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

The certificate shall bear the seal of the county treasurer or of the department, and the signature of the county treasurer, the deputy county treasurer, or the department director or deputy designee. ~~The certificate shall provide space for the signature of the owner. The owner shall sign the certificate of title in the space provided with pen and ink upon its receipt.~~ The certificate of title shall contain upon the reverse side a form for assignment of title or interest and warranty by the owner, for reassignments by a dealer licensed in this state or in another state if the state in which the dealer is licensed permits Iowa licensed dealers to similarly reassign certificates of title. Attached to the certificate of title shall be an application for a new certificate of title by the transferee as provided in this chapter. However, titles for mobile homes or manufactured housing shall not be reassigned by licensed dealers. All certificates of title shall be typewritten or printed by other mechanical means. Notwithstanding section 321.1, subsection 17, as used in this paragraph "dealer" means every person engaged in the business of buying, selling, or exchanging vehicles of a type required to be registered under this chapter.

Sec. 43. Section 321.42, subsection 2, paragraphs a, b, and d, Code Supplement 1999, are amended to read as follows:

a. If a certificate of title is lost or destroyed, the owner or lienholder shall apply for a ~~certified~~ replacement copy of the original certificate of title. The owner or lienholder of a motor vehicle may also apply for a ~~certified~~ replacement copy of the original certificate of title ~~as a replacement for the original certificate of title~~ upon surrender of the original certificate of title with the application. The application shall be made to the department or county treasurer who issued the original certificate of title. The application shall be signed by the owner or lienholder and accompanied by a fee of ten dollars.

b. After five days, the department or county treasurer shall issue a ~~certified~~ replacement copy to the applicant at the applicant's most recent address, however, the five-day waiting period does not apply to an applicant who has surrendered the original certificate of title to the department or county treasurer. The ~~certified~~ replacement copy shall be clearly marked ~~"duplicate"~~ "replacement" and shall ~~be identical to the original, including~~ include notation of liens or encumbrances. When a ~~certified~~ replacement copy has been issued, the previous certificate is void.

d. A new purchaser or transferee is entitled to receive an original title upon presenting the assigned ~~duplicate~~ replacement copy to the treasurer of the county where the new purchaser or transferee resides. At the time of purchase, a purchaser may require the seller to indemnify the purchaser and all future purchasers of the vehicle against any loss which may be suffered due to claims on the original certificate. A person recovering an original certificate of title for which a ~~duplicate~~ replacement has been issued shall surrender the original certificate to the county treasurer or the department.

Sec. 44. Section 321.50, subsection 1, Code Supplement 1999, is amended to read as follows:

1. A security interest in a vehicle subject to registration under the laws of this state or a mobile home or manufactured housing, except trailers whose empty weight is two thousand pounds or less, and except new or used vehicles held by a dealer or manufacturer as inventory for sale, is perfected by the delivery to the county treasurer of the county where the certificate of title was issued or, in the case of a new certificate, to the county treasurer where the certificate will be issued, of an application for certificate of title which lists the security interest, or an application for notation of security interest signed by the owner, or by one owner of a vehicle owned jointly by more than one person, or a certificate of title from another jurisdiction which shows the security interest, and a fee of five dollars for each security interest shown. Up to three security interests may be perfected against a vehicle and shown on an Iowa certificate of title. If the owner or secured party is in possession of the certificate of title, it must also be delivered at this time in order to perfect the security interest. If a vehicle is subject to a security interest when brought into this state, the validity of the security interest and the date of perfection is determined by section 554.9103. Delivery as provided in this subsection is an indication of a security interest on a certificate of title for purposes of chapter 554.

Sec. 45. Section 321.157, Code 1999, is amended to read as follows:

321.157 SCHEDULE OF PRICES AND WEIGHTS.

1. ~~Every~~ A manufacturer or importer of a motor vehicle sold or offered for sale ~~within~~ in this state, either by the manufacturer, importer, distributor, dealer, or any other person, shall file in the office of the department a sworn statement showing the various models manufactured by the manufacturer, importer, distributor, dealer, or other person, and the retail list price and weight of each model concurrently with a public announcement of such prices or concurrently with notification of such prices to dealers licensed to sell such motor vehicles under chapter 322, whichever comes first. The manufacturer, importer, distributor, dealer, or other person shall also make the same report on subsequent new models manufactured.

2. In lieu of filing the sworn statement required under subsection 1, a manufacturer or importer of a motor vehicle sold or offered for sale in this state may electronically provide the information required in subsection 1 to the department, or, if the manufacturer or importer provides the required information to a third-party vendor, the manufacturer or importer shall make the required information available to the department through the third-party vendor.

Sec. 46. Section 321.159, Code 1999, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. For a current year model of a motor vehicle for which the manufacturer or importer of the motor vehicle has not provided the weight and list price, the department shall set the annual registration fee at ten dollars greater than the annual registration fee for the previous year model. Once the manufacturer or importer provides the required information, the information shall be used to set the registration or registration renewal fee for the succeeding registration or registration renewal time for the motor vehicle.

Sec. 47. EFFECTIVE DATE. This division of this Act takes effect July 1, 2001.

Approved March 29, 2000

CHAPTER 1017

DUST CONTROL ON MUNICIPAL STREETS —
PRIMARY ROAD FUND EXPENDITURE

S.F. 2164

AN ACT relating to expenditure of primary road fund moneys for dust control on certain municipal streets.

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

Section 1. Section 313.4, subsection 1, unnumbered paragraph 2, Code Supplement 1999, is amended to read as follows:

The department may expend moneys from the fund for dust control on a secondary road or municipal street within a municipal street system when there is a notable increase in traffic on the secondary road or municipal street due to closure of a road by the department for purposes of establishing, constructing, or maintaining a primary road.

Approved March 29, 2000

CHAPTER 1018

SOYDIESEL FUEL PILOT PROJECT

S.F. 2256

AN ACT establishing a pilot project requiring that the state department of transportation purchase soydiesel fuel for use in some of its vehicles, and providing for contingent effectiveness.

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

Section 1. Section 159A.2, subsection 8, Code 1999, is amended to read as follows:

8. "Soydiesel fuel" means a fuel which is a mixture of diesel fuel and processed soybean oil, if at least twenty percent of the mixed fuel by volume is processed soybean oil which meets American society for testing and materials standards.

Sec. 2. BIODIESEL FUEL PILOT PROJECT — REPORT. Beginning September 1, 2000, the state department of transportation shall conduct a biodiesel fuel pilot project at two of the department's field garages in the state which have underground diesel fuel storage tanks. The pilot project shall be conducted for as long as the department has sufficient funding for the project. During the course of the pilot project, all of the department's vehicles that use diesel fuel and are based at the designated field garages shall use biodiesel fuel. A department motor vehicle operating on biodiesel fuel shall be affixed with a brightly visible sticker which notifies the traveling public that the motor vehicle uses biodiesel fuel. For purposes of this section, "biodiesel fuel" means soydiesel fuel as defined in section 159A.2.

The department shall file with the general assembly a preliminary report by February 1, 2001, and a final report by January 1, 2002, on the department's findings and recommendations relating to the pilot project.

Sec. 3. CONTINGENT EFFECTIVENESS. The section of this Act directing the state department of transportation to conduct a pilot project is effective contingent upon an appropriation by the Seventy-eighth General Assembly, Second Session, to the department for the fiscal year beginning July 1, 2000, which can only be used for the purchase of biodiesel fuel for purposes of the pilot project.

Approved March 29, 2000

CHAPTER 1019

COUNTY RECORDER DUTIES — REGISTRATION AND LICENSING

S.F. 2061

AN ACT relating to the registration and licensing duties of the county recorder and providing for other properly related matters.

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

Section 1. Section 321G.6, unnumbered paragraph 6, Code Supplement 1999, is amended to read as follows:

Upon the transfer of ownership of an all-terrain vehicle or snowmobile, the owner shall complete the form on the back of ~~a~~ the current registration certificate and shall deliver it to the purchaser or transferee at the time of delivering the all-terrain vehicle or snowmobile. ~~If an all-terrain vehicle or snowmobile is stored by the transferor pursuant to section 321G.4 at the time of transfer, the transferor shall provide the transferee with a copy of the affidavit filed with the county recorder pursuant to section 321G.4 at the time of delivering the all-terrain vehicle or snowmobile.~~ The purchaser or transferee shall, within five 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 five days of transfer, the transfer of number shall be awarded upon payment of all applicable fees plus a penalty of five dollars.

Sec. 2. Section 462A.5, subsection 1, unnumbered paragraph 2, Code 1999, is amended to read as follows:

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 ~~a~~ the writing fee ~~of one dollar~~ 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. 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 of any nature with another vessel or other personal property, to the owner or operator of the other vessel or personal property.

Sec. 3. Section 483A.10, Code 1999, is amended to read as follows:

483A.10 ISSUANCE OF LICENSES.

The licenses issued pursuant to this chapter shall be issued by the department~~, the county recorders,~~ or the license depositaries as specified by rules of the commission. A county recorder may issue licenses subject to the rules of the department. The rules shall include the application procedures as necessary. The licenses shall show the cost of the license and the writing fee. A person authorized to issue a license or collect a fee pursuant to this chapter or chapter 484A shall charge the fee specified in this chapter or chapter 484A only plus a writing fee if applicable.

Approved March 30, 2000

CHAPTER 1020

DEPARTMENT OF PUBLIC DEFENSE — NATIONAL GUARD OFFICERS — EMERGENCY RESPONSE COMMISSION MEMBERSHIP

S.F. 2266

AN ACT relating to the department of public defense by changing the number and qualifications of general officers in the Iowa national guard and increasing the membership of the emergency response commission and providing an effective date.

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

DIVISION I
PUBLIC DEFENSE

Section 1. Section 29A.1, subsection 1, Code 1999, is amended to read as follows:

1. "Active state service" means service on behalf of the state when public disaster, riot, tumult, breach of the peace or resistance of process occurs or threatens to occur, when called upon in aid of civil authorities or when under martial law or at encampments ordered by state authority. Active state service also includes serving as the adjutant general, a deputy adjutant general, or the state quartermaster ~~and administrative orders officer~~, but does not include training or duty required or authorized under 32 U.S.C. § 502-505, or any other training or duty required or authorized by federal laws and regulations.

Sec. 2. Section 29A.11, Code 1999, is amended to read as follows:

29A.11 ADJUTANT GENERAL — APPOINTMENT, TERM, AND REMOVAL.

There shall be an adjutant general of the state who shall be appointed and commissioned by the governor subject to confirmation by the senate and who shall serve at the pleasure of the governor. The rank of the adjutant general shall be at least that of brigadier general and the adjutant general shall hold office for a term of four years beginning and ending as provided in section 69.19. At the time of appointment the adjutant general shall be ~~or have been~~ a federally recognized commissioned officer in the ~~armed forces~~ United States army or

air force, the army or air national guard of the United States, or the United States army or air force reserve who has reached at least the grade of ~~a field officer~~ colonel and who is or is eligible to be federally recognized at the next higher rank.

Sec. 3. Section 29A.16, Code 1999, is amended to read as follows:

29A.16 DEPUTY ~~ADJUTANT~~ ADJUTANTS GENERAL ~~AND ASSISTANTS~~.

1. The governor shall appoint a deputy adjutant general~~, who shall be or have been a commissioned officer, and an assistant adjutant general for the army national guard who shall be a commissioned officer, and an assistant adjutant general for the air national guard who shall be a commissioned officer, upon the recommendation of the adjutant general~~ for the army national guard and a deputy adjutant general for the air national guard upon recommendation of the adjutant general. At the time of appointment, the deputy adjutants general shall be federally recognized officers in the national guard who have attained at least the rank of colonel and who are eligible for federal recognition at the next higher rank.

2. ~~They~~ The deputy adjutants general shall have ~~such~~ the rank as is consistent with federal law and regulations to and including the rank of brigadier general ~~and at the time of their appointment shall be federally commissioned officers and they shall have reached the grade of a field officer~~. ~~They~~ The deputy adjutants general shall serve at the pleasure of the governor.

3. The deputy ~~adjutant~~ adjutants general shall serve in the office of the adjutant general and aid by performing such duties as the adjutant general may assign. In the absence or disability of the adjutant general the senior deputy present for duty, based upon date of appointment under this section, shall perform the duties of that office as acting adjutant general. ~~Each assistant adjutant general shall be responsible for duties with the army national guard or the air national guard, respectively, as prescribed by the adjutant general.~~

4. The adjutant general may appoint a full-time staff within prescribed personnel authorization. Members of ~~that~~ the staff who are not in state active duty status are authorized salaries with allowances as provided by ~~the executive council exempt pay plan~~ law.

Sec. 4. Section 29A.17, unnumbered paragraph 1, Code 1999, is amended to read as follows:

The military staff of the governor shall consist of the adjutant general, who shall be the chief of staff; the ~~assistant adjutant~~ deputy adjutants general, who shall be the assistant ~~chief~~ chiefs of staff and ~~such~~ the aides, residents of the state, as the governor may appoint or detail from the armed forces of the state.

Sec. 5. Section 29A.66, Code 1999, is amended to read as follows:

29A.66 APPLICABLE POWERS AND DUTIES.

The powers and duties of the governor, the adjutant general and the deputy ~~adjutant~~ adjutants general, with relation to the Iowa state guard shall be the same as those powers and duties prescribed in this chapter for ~~such~~ the officers with relation to the national guard.

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

DIVISION II
IOWA EMERGENCY RESPONSE COMMISSION

Sec. 7. Section 30.2, subsection 2, Code 1999, is amended to read as follows:

2. a. The commission is composed of ~~twelve~~ fifteen members appointed by the governor. One member shall be appointed to represent the department of agriculture and land stewardship, one to represent the department of workforce development, one to represent the department of justice, one to represent the department of natural resources, one to represent the department of public defense, one to represent the Iowa department of public health, one to represent the department of public safety, one to represent the state department of transportation, one to represent the fire service institute of the Iowa state university of science and

technology, one to represent a local emergency planning committee, one to represent the Iowa hazardous materials task force, and one to represent the office of the governor. ~~Two~~ Three representatives from private industry shall also be appointed by the governor, subject to confirmation by the senate.

b. The commission members representing the departments of workforce development, natural resources, public defense, public safety, and transportation, and one private industry representative designated by the commission shall be voting members of the commission. The remaining members of the commission shall serve as nonvoting, advisory members.

Approved March 30, 2000

CHAPTER 1021

REGULATION OF PHYSICAL EXERCISE CLUBS AND SOCIAL REFERRAL SERVICES

S.F. 2372

AN ACT relating to certain providers of consumer services by eliminating the registration requirement for physical exercise clubs, making social referral service providers subject to provisions relating to door-to-door sales, and making penalties applicable.

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

Section 1. Section 552.14, subsection 2, paragraph a, Code 1999, is amended by striking the paragraph.

Sec. 2. Section 552.16, subsection 2, Code 1999, is amended to read as follows:

2. If the physical exercise club does not fully open for business before the two hundred eleventh day after the date it enters into the first physical exercise club contract or if the club does not remain fully open for thirty days, the buyers whose payments are held in escrow under this section shall receive a full refund, including the buyer's pro rata share of any interest earned thereon, from the escrow agent. Refunds pursuant to this section shall be made not later than the two hundred forty-first day after the date the first physical exercise club contract was signed. If the escrow agent fails to make a full refund as provided for in this section, the attorney general shall hold a hearing and determine whether the physical exercise club has fully opened and has remained open for thirty days, and if not, determine those persons who, as buyers, are entitled to a refund and, if appropriate, distribute the escrow proceeds. Notice shall be provided to the physical exercise club at ~~its place of business as shown on its registration statement~~ the address specified in the contract pursuant to section 552.4 and to all buyers who have funds in the escrow account. All hearings held under this section shall be held in accordance with chapter 17A.

Sec. 3. Section 555A.1, subsections 3 and 4, Code 1999, are amended to read as follows:

3. a. "Door-to-door sale" means a sale, lease, or rental of consumer goods or services with a purchase price of twenty-five dollars or more, whether under single or multiple contracts, in which the seller or the seller's representative personally solicits the sale, including those in response to or following an invitation by the buyer, and the buyer's agreement or offer to purchase is made at a place other than the place of business of the seller. Door-to-door sale does not include a transaction:

~~a.~~ (1) Made pursuant to prior negotiations in the course of a visit by the buyer to a retail business establishment having a fixed permanent location where the goods are exhibited or the services are offered for sale on a continuing basis.

~~b.~~ (2) In which the consumer is accorded the right of rescission by the provisions of the Consumer Credit Protection Act, 15 U.S.C. § 1635, or rules issued pursuant to this chapter.

~~c.~~ (3) In which the buyer has initiated the contact and the goods or services are needed to meet a bona fide immediate personal emergency of the buyer, and the buyer furnishes the seller with a separate dated and signed personal statement in the buyer's handwriting describing the situation requiring immediate remedy and expressly acknowledging and waiving the right to cancel the sale within three business days.

~~d.~~ (4) Conducted and consummated entirely by mail or telephone; and without any other contact between the buyer and the seller or its representative prior to delivery of the goods or performance of the services.

~~e.~~ (5) In which the buyer has initiated the contact and specifically requested the seller to visit the buyer's home for the purpose of repairing or performing maintenance upon the buyer's personal property. If in the course of such a visit, the seller sells the buyer the right to receive additional services or goods other than replacement parts necessarily used in performing the maintenance or in making the repairs, the sale of those additional goods or services would not fall within this exclusion.

~~f.~~ (6) Pertaining to the sale or rental of real property, to the sale of insurance and prepaid health service plans, or to the sale of securities or commodities by a broker-dealer registered with the securities and exchange commission.

~~4.~~ b. "Door-to-door sale", irrespective of the place or manner of sale, also means ~~a~~ the following:

(1) A sale of funeral services or funeral merchandise regulated under chapter 523A~~, irrespective of the place or manner of sale~~.

(2) A sale of a social referral service or an ancillary service. For purposes of this subparagraph, "social referral service" means a service for a fee providing matching or introduction of individuals for the purpose of dating, matrimony, or general social contact not otherwise prohibited by law, and "ancillary service" means goods or services directly or indirectly related to or to be provided in connection with a social referral service.

Sec. 4. Section 552.15, Code 1999, is repealed.

Approved March 30, 2000

CHAPTER 1022

CORPORATE REPORTING TO SECRETARY OF STATE

S.F. 2388

AN ACT relating to the filing of reports with the secretary of state by corporate entities.

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

Section 1. Section 9H.9, subsection 2, Code 1999, is amended to read as follows:

2. The total number of hogs and the total number of cattle owned and fed more than thirty days by the processor during the preceding calendar year or fiscal year.

Sec. 2. NEW SECTION. 10B.4A SUSPENSION OF OTHER FILING REQUIREMENTS.

The secretary of state shall not prepare or distribute forms for reports or file reports otherwise required pursuant to section 9H.5A, 501.103, or 567.8. A person required to file a report pursuant to this chapter is not required to file a report under those sections.

Sec. 3. Section 495.3, Code 1999, is amended to read as follows:

495.3 ~~ANNUAL~~ BIENNIAL REPORT — FEE.

All corporations subject to the provisions of this chapter are hereby required to pay the ~~annual~~ fee and to make the ~~annual~~ biennial report in the form and manner and at the time as specified in chapter 490.

Sec. 4. Section 496C.21, unnumbered paragraph 1, Code 1999, is amended to read as follows:

Each ~~annual~~ biennial report of a professional corporation or foreign professional corporation shall, in addition to the information required by the Iowa business corporation Act, set forth:

Sec. 5. Section 496C.21, unnumbered paragraph 3, Code 1999, is amended by striking the unnumbered paragraph, and inserting in lieu thereof the following:

A corporation subject to the provisions of this chapter shall pay the biennial filing fee and make the biennial report in a form and manner and at the time specified in chapter 490.

Sec. 6. Section 497.26, Code 1999, is amended to read as follows:

497.26 CANCELLATION.

If the ~~annual~~ biennial report required is not filed and penalties paid on or before the last day of June the secretary of state shall, on the first day of July following, cancel the name of any delinquent corporation from the list of live corporations in the secretary of state's office, and enter such cancellation on the proper records.

Sec. 7. Section 498.28, Code 1999, is amended to read as follows:

498.28 CANCELLATION.

If the ~~annual~~ biennial report required is not filed and penalties paid on or before the last day of June the secretary of state shall, on the first day of July following, cancel the name of any delinquent corporation from the list of live corporations in the secretary of state's office, and enter such cancellation on the proper records.

Sec. 8. Section 499.43A, subsection 2, unnumbered paragraph 1, Code 1999, is amended to read as follows:

The instrument shall be filed with the secretary of state. The cooperative association shall amend its articles of incorporation pursuant to section 499.41 to comply with the provisions of this chapter. The secretary of state shall not file the instrument unless the cooperative association is in compliance with the provisions of chapter 498 at the time of filing. A cooperative association shall file ~~an annual~~ a biennial report which is due pursuant to section 499.49. Upon filing the instrument with the secretary, all of the following shall apply:

Sec. 9. Section 499.53, Code 1999, is amended to read as follows:

499.53 QUO WARRANTO.

The right of an association to exist or continue under this chapter may be inquired into by the attorney general, but not otherwise. If from its ~~annual~~ biennial report or otherwise, the secretary of state is informed that it is not functioning as a cooperative, the secretary shall so notify the attorney general, who, if the attorney general finds reasonable cause so to believe, shall bring action to oust it and wind up its affairs.

Sec. 10. Section 499.73, subsection 4, Code 1999, is amended to read as follows:

4. An association may also appoint or change its registered office or registered agent in its ~~annual~~ biennial report.

Sec. 11. Section 499.76, subsection 1, Code 1999, is amended to read as follows:

1. The association has not delivered ~~an annual~~ a biennial report to the secretary of state in a form that meets the requirements of section 499.49, within sixty days after it is due.

Sec. 12. Section 501.106, subsection 4, Code 1999, is amended to read as follows:

4. A cooperative may also change its registered office or registered agent in its ~~annual~~ biennial report.

Sec. 13. Section 501.701, subsection 5, paragraph g, Code Supplement 1999, is amended to read as follows:

g. Its most recent ~~annual~~ biennial report delivered to the secretary of state under section 501.713.

Sec. 14. Section 501.713, subsection 1, unnumbered paragraph 1, Code Supplement 1999, is amended to read as follows:

Each cooperative authorized to transact business in this state shall deliver to the secretary of state for filing ~~an annual~~ a biennial report that sets forth all of the following:

Sec. 15. Section 501.713, subsections 2 through 5, Code Supplement 1999, are amended to read as follows:

2. Information in the ~~annual~~ biennial report must be current as of the first day of January of the year in which the report is due. The report shall be executed on behalf of the cooperative and signed as provided in section 501.105 or by any other person authorized by the board of directors of the cooperative.

3. The first ~~annual~~ biennial report shall be delivered to the secretary of state between January 1 and April 1 of the first even-numbered year following the calendar year in which a cooperative was organized. Subsequent ~~annual~~ biennial reports must be delivered to the secretary of state between January 1 and April 1 of the following even-numbered calendar years. A filing fee for the ~~annual~~ biennial report shall be determined by the secretary of state.

4. If ~~an annual~~ a biennial report does not contain the information required by this section, the secretary of state shall promptly notify the reporting cooperative in writing and return the report to the cooperative for correction.

5. The secretary of state may provide for the change of registered office or registered agent on the form prescribed by the secretary of state for the ~~annual~~ biennial report, provided that the form contains the information required in section 501.106. If the secretary of state determines that ~~an annual~~ a biennial report does not contain the information required by this section but otherwise meets the requirements of section 501.106 for the purpose of changing the registered office or registered agent, the secretary of state shall file the statement of change of registered office or registered agent, effective as provided in section 501.105, before returning the ~~annual~~ biennial report to the cooperative as provided in this section. A statement of change of registered office or agent pursuant to this subsection shall be executed by a person authorized to execute the ~~annual~~ biennial report.

Sec. 16. Section 501.811, subsection 1, Code 1999, is amended to read as follows:

1. The cooperative has not delivered ~~an annual~~ a biennial report to the secretary of state in a form that meets the requirements of section 501.713, within sixty days after it is due, or has not paid the filing fee as determined by the secretary of state, within sixty days after it is due.

Approved March 30, 2000

CHAPTER 1023

INSURANCE REGULATION — MISCELLANEOUS PROVISIONS

S.F. 2409

AN ACT relating to the operation and regulation of insurance companies, mutual insurance associations, benevolent associations, health maintenance organizations, and other insurance or risk-assuming entities, including the rights and duties of such entities and the powers and authority of the insurance commissioner and providing effective dates.

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

Section 1. Section 87.4, unnumbered paragraph 2, Code 1999, is amended to read as follows:

A self-insurance association formed under this section and an association comprised of cities or counties, or both, or community colleges as defined in section 260C.2 or school corporations, or both, or other political subdivisions, which have entered into an agreement under chapter 28E for the purpose of establishing a self-insured program for the payment of workers' compensation benefits are exempt from taxation under section 432.1.

Sec. 2. Section 87.4, unnumbered paragraph 4, Code 1999, is amended to read as follows:

A self-insured program for the payment of workers' compensation benefits established by an association comprised of cities or counties, or both, or community colleges, as defined in section 260C.2, or other political subdivisions, which have entered into an agreement under chapter 28E, is not insurance, and is not subject to regulation under chapters 505 through 523C. Membership in such an association together with payment of premiums due relieves the member from obtaining insurance as required in section 87.1. Such an association is not required to submit its plan or program to the commissioner of insurance for review and approval prior to its implementation and is not subject to rules or rates adopted by the commissioner relating to workers' compensation group self-insurance programs. Such a program is deemed to be in compliance with this chapter.

Sec. 3. Section 100A.1, Code 1999, is amended by adding the following new paragraph:

NEW PARAGRAPH. j. The fraud bureau within the insurance division of the department of commerce.

Sec. 4. Section 505.8, subsection 5, Code Supplement 1999, is amended by striking the subsection.

Sec. 5. Section 505.8, Code Supplement 1999, is amended by adding the following new subsection:

NEW SUBSECTION. 7. The commissioner shall adopt rules protecting the privacy of information held by an insurer or an agent consistent with the federal Gramm-Leach-Bliley Act, Pub. L. No. 106-102.

Sec. 6. NEW SECTION. 505.23 HEARINGS.

If an evidentiary hearing is conducted in a proceeding pursuant to sections 508B.7, 515G.7, 521A.3, or 521A.14, or in a proceeding with respect to a merger or consolidation pursuant to chapter 521, the proceeding is a contested case subject to chapter 17A.

Sec. 7. Section 508.4, Code 1999, is amended to read as follows:

508.4 APPROVAL OF AMENDMENTS.

All amendments to ~~such articles and amendments hereafter made to~~ the articles of incorporation of companies already organized under the laws of this state shall be approved in like manner.

A company shall file with the commissioner bylaws and subsequent amendments to such bylaws within thirty days of the adoption of such bylaws and amendments.

Sec. 8. Section 508B.3, unnumbered paragraph 1, Code 1999, is amended to read as follows:

A plan of conversion shall ~~not~~ be ~~unfair or inequitable~~ fair and equitable to policyholders. A plan of conversion is ~~not unfair or inequitable~~ fair and equitable if it satisfies the conditions of subsections 1, 2, or 3. The commissioner may determine ~~that~~ whether any other plan proposed by a mutual company is ~~not unfair or inequitable~~ fair and equitable to its policyholders.

Sec. 9. Section 508B.4, Code 1999, is amended to read as follows:

508B.4 ELIGIBLE POLICYHOLDERS PARTICIPATION.

The policyholders who are entitled to notice of and to vote upon approval of a plan of conversion and entitled to notice of a public hearing are the policyholders whose policies or contracts are in force on the date of adoption of the plan of conversion. Each policyholder whose policy has been in force for at least one year prior to the date is entitled to the consideration, if any, provided for the policyholder in the plan based on the policyholder's membership interest determined pursuant to this chapter, but only ~~to the extent that~~ if the policyholder's membership interest arose from ~~policies or contracts~~ a policy or contract in force on the effective date of the conversion and ~~which were in force~~ such membership interest has been held continuously for at least one year prior to the date of adoption of the plan. For this purpose, any changes in status of, or premiums in excess of those required on the policies or contracts occurring or made after the date one year prior to the date of adoption of the plan shall be disregarded.

Sec. 10. Section 508B.7, Code 1999, is amended to read as follows:

508B.7 REVIEW OF PLAN BY COMMISSIONER — HEARING AUTHORIZED — APPROVAL.

The commissioner of insurance shall review the plan. The commissioner shall approve the plan if the commissioner finds the plan complies with all provisions of law, the plan is ~~not unfair or inequitable~~ fair and equitable to the mutual company and its policyholders, and that the reorganized company will have the amount of capital and surplus deemed by the commissioner to be reasonably necessary for its future solvency. The commissioner may order a hearing on the fairness and equity of the terms of the plan after giving written notice of the hearing to the mutual company, its policyholders, and other interested persons, all of whom have the right to appear at the hearing. Costs incurred in connection with the notice shall be paid by the company.

Sec. 11. Section 508B.9, unnumbered paragraph 1, Code 1999, is amended to read as follows:

When the commissioner and the policyholders approve the conversion plan as provided in this chapter, the commissioner shall issue a new certificate of authority to the reorganized company effective on the effective date ~~specified~~ of the conversion as provided in the plan. The reorganized company is a continuation of the mutual life insurance company and the conversion shall not annul or modify any of the mutual company's existing suits, contracts, or liabilities except as provided in the approved conversion plan. All rights, franchises, and interests of the mutual company in and to property, assets, and other interests shall be transferred to and shall vest in the reorganized company and the reorganized company shall assume all obligations and liabilities of the mutual company.

Sec. 12. Section 508B.14, unnumbered paragraph 2, Code Supplement 1999, is amended to read as follows:

An action challenging the validity of a conversion plan, or any part of a conversion plan, shall not be commenced more than ~~one hundred eighty~~ thirty days following the date of approval by the commissioner, unless an application for rehearing is filed pursuant to section 17A.16, subsection 2. If an application for rehearing is filed, then such action must be filed within thirty days after that application is denied or deemed denied or, if the application is granted, within thirty days after the issuance of the commissioner's final decision on rehearing.

Sec. 13. Section 508C.3, subsection 3, Code 1999, is amended by adding the following new paragraphs:

NEW PARAGRAPH. j. An obligation that does not arise under the express written terms of a covered policy.

NEW PARAGRAPH. k. A contractual agreement that establishes a member insurer's obligations to provide a book value accounting guaranty for defined contribution benefit plan participants by reference to a portfolio of assets that is owned by the benefit plan or its trustee, which in each case is not an affiliate of the member insurer.

NEW PARAGRAPH. l. A portion of a covered policy to the extent it provides for interest or other change in value to be determined by the use of an index or other external reference stated in the covered policy, but which has not been credited to the covered policy, or as to which the covered policy owner's rights are subject to forfeiture, as of the date the member insurer becomes an impaired or insolvent insurer under this chapter, whichever is earlier. If a covered policy's interest or change in value is credited less frequently than annually, then for purposes of determining the values that have been credited and are not subject to forfeiture under the covered policy, the interest or change in value determined by using the procedures defined in the covered policy will be credited as if the contractual date of crediting interest or changing values was the date of impairment or insolvency, whichever is earlier, and will not be subject to forfeiture.

Sec. 14. Section 508C.9, subsection 5, paragraph a, Code 1999, is amended to read as follows:

a. The total of all assessments upon a member insurer for each account shall not in any one calendar year exceed two percent of the average of the insurer's premiums received in this state during the three most recent calendar years for which information is available, preceding the year in which the insurer becomes impaired or insolvent, on the policies related to that account. However, if two or more assessments are authorized in one calendar year with respect to insurers that become impaired or insolvent in different calendar years, the average annual premiums for purposes of the aggregate assessment percentage limitation of this paragraph shall be equal, and limited, to the higher of the three-year average annual premiums for the applicable account as calculated pursuant to this section. If the maximum assessment for an account, together with the other assets of the association in the account, does not provide in any one year in the account an amount sufficient to carry out the responsibilities of the association, the necessary additional funds shall be assessed for the account in succeeding years as soon as permitted by this chapter.

Sec. 15. Section 511.8, subsection 5, paragraph b, unnumbered paragraph 1, Code 1999, is amended to read as follows:

If adjustment, income or other contingent interest obligations, the net earnings of the issuing, assuming or guaranteeing corporation available for its fixed charges for a period of five fiscal years next preceding the date of acquisition of the obligations by such insurance company shall have averaged per year not less than one and one-half times such average annual fixed charges of the issuing, assuming or guaranteeing corporation and its average annual maximum contingent interest applicable to such period and, during at least one of the last two years of such period, its net earnings shall have been not less than one and one-half times the sum of its fixed charges and maximum contingent interest for such year, or if, at the date of acquisition, the obligations are adequately secure and have investment qualities and characteristics and speculative elements are not predominant.

Sec. 16. Section 511.8, subsection 5, paragraph b, unnumbered paragraph 4, Code 1999, is amended to read as follows:

The term "corporation" as used in this chapter includes a joint stock association, a limited liability company, a partnership, or a trust.

Sec. 17. Section 511.8, subsection 17, paragraph b, Code 1999, is amended by striking the paragraph.

Sec. 18. Section 511.8, Code 1999, is amended by adding the following new subsection:

NEW SUBSECTION. 22. FINANCIAL INSTRUMENTS USED IN HEDGING TRANSACTIONS.

a. As used in this subsection, unless the context otherwise requires:

(1) "Financial instrument" means an agreement, option, instrument, or any series or combination agreement, option, or instrument that provides for either of the following:

(a) To make or take delivery of, or assume or relinquish, a specified amount of one or more underlying interests, or to make a cash settlement in lieu of such delivery or relinquishment.

(b) Which has a price, performance, value, or cash flow based primarily upon the actual or expected price, level, performance, value, or cash flow of one or more underlying interests.

(2) "Financial instrument transaction" means a transaction involving the use of one or more financial instruments.

(3) "Hedging transaction" means a financial instrument transaction which is entered into and maintained to reduce either of the following:

(a) The risk of a change in the value, yield, price, cash flow, or quality of assets or liabilities which the domestic insurer has acquired and maintains as qualified assets in its legal reserve deposit or which liabilities the domestic insurer has incurred and form the basis for calculation of its legal reserve.

(b) The currency exchange-rate risk or the degree of exposure as to assets or liabilities which the domestic insurer has acquired or incurred.

b. Financial instruments used in hedging transactions must meet the qualifications established in subsection 5 for bonds or other evidences of indebtedness issued, assumed, or guaranteed by a corporation incorporated under the laws of the United States or Canada, or the qualifications established in subsection 19 for bonds or other evidences of indebtedness issued, assumed, or guaranteed by a corporation incorporated under the laws of a foreign government other than Canada.

c. Investments in financial instruments used in hedging transactions are not eligible in excess of two percent of the legal reserve in the financial instruments of any one corporation, less any securities of that corporation owned by the company or association and in which its legal reserve is invested, except insofar as the financial instruments are collateralized by cash or United States government obligations as authorized by subsection 1 deposited with a custodian bank as defined in subsection 21, and held under a written agreement with the custodian bank that complies with subsection 21 and provides for the proceeds of the collateral, subject to the terms and conditions of the applicable collateral or other credit support agreement, to be remitted to the legal reserve deposit of the company or association and to vest in the state in accordance with section 508.18 whenever proceedings under that section are instituted.

d. Investments in financial instruments used in hedging transactions are not eligible in excess of ten percent of the legal reserve, except insofar as the financial instruments are collateralized by cash or United States government obligations as authorized by subsection 1 deposited with a custodian bank as defined in subsection 21, and held under a written agreement with the custodian bank that complies with subsection 21 and provides for the proceeds of the collateral, subject to the terms and conditions of the applicable collateral or other credit support agreement, to be remitted to the legal reserve deposit of the company or association and to vest in the state in accordance with section 508.18 whenever proceedings under this section[1] are instituted.

e. Investments in financial instruments of foreign governments or foreign corporate obligations, other than Canada, used in hedging transactions are not eligible in excess of ten percent of the legal reserve, less any foreign investment authorized by subsection 19 owned by the company or association and in which its legal reserve is invested, except insofar as the financial instruments are collateralized by cash or United States government obligations as authorized by subsection 1 deposited with a custodian bank as defined in subsection 21, and held under a written agreement with the custodian bank that complies with

[1] The phrase "proceedings under that section" probably intended

subsection 21 and provides for the proceeds of the collateral, subject to the terms and conditions of the applicable collateral or other credit support agreement, to be remitted to the legal reserve deposit of the company or association and to vest in the state in accordance with section 508.18 whenever proceedings under that section are instituted.

f. Prior to engaging in hedging transactions under this subsection, a domestic insurer shall develop and adequately document policies and procedures regarding hedging transaction strategies and objectives. Such policies and procedures shall address authorized hedging transactions, limitations, internal controls, documentation, and authorization and approval procedures. Such policies and procedures shall also provide for review of hedging transactions by the domestic insurer's board of directors or the board of directors' designee.

g. A domestic insurer shall be able to demonstrate to the commissioner the intended hedging characteristics of hedging transactions under this subsection and the ongoing effectiveness of each hedging transaction or combination of hedging transactions.

h. Financial instruments used in hedging transactions shall only be eligible in accordance with this subsection after the commissioner has adopted rules pursuant to chapter 17A regulating hedging transactions under this subsection.

Sec. 19. NEW SECTION. 512A.10 AMENDMENTS TO ARTICLES AND BYLAWS.

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

2. The directors of a benevolent association shall have the authority to enact such bylaws and regulations not inconsistent with law as they consider necessary for the regulation and conduct of the business. A change in the bylaws shall not limit coverage under existing certificates. A benevolent association shall file with the commissioner bylaws and amendments to the bylaws within thirty days of adoption of such bylaws or amendments.

Sec. 20. Section 513B.2, subsections 2, 13, and 15, Code 1999, are amended to read as follows:

2. "Base premium rate" means, for each class of business as to a rating period, the lowest premium rate charged or which could have been charged under a rating system for that class of business, by the small employer carrier to small employers ~~with similar case characteristics~~ for health insurance plans with the same or similar coverage.

13. "Index rate" means for each class of business for small employers ~~with similar case characteristics~~ the average of the applicable base premium rate and the corresponding highest premium rate.

15. "New business premium rate" means, for each class of business as to a rating period, the lowest premium rate charged or offered by the small employer carrier to small employers ~~with similar case characteristics~~ for newly issued health insurance coverages with the same or similar coverage.

Sec. 21. Section 513C.10, subsection 6, Code 1999, is amended to read as follows:

6. Rates for basic and standard coverages as provided in this chapter shall be determined by each carrier or organized delivery system as the ~~average of~~ product of a basic and standard factor and the lowest rate available for issuance by that carrier or organized delivery system adjusted for rating characteristics and benefits ~~and the maximum rate allowable by law after adjustments for rate characteristics and benefits~~. Basic and standard factors shall be established annually by the Iowa individual health benefit reinsurance association board with the approval of the commissioner. Multiple basic and standard factors for a distinct grouping of basic and standard policies, may be established. A basic and standard factor is limited to a minimum value defined as the ratio of the average of the lowest rate available for

issuance and the maximum rate allowable by law divided by the lowest rate available for issuance. A basic and standard factor is limited to a maximum value defined as the ratio of the maximum rate allowable by law divided by the lowest rate available for issuance. The maximum rate allowable by law and the lowest rate available for issuance is determined based on the rate restrictions under this chapter. However, to maintain assessable loss assessments at or below one percent of total health insurance premiums or payments as determined in accordance with subsection 10, the Iowa individual health benefit reinsurance association board with the approval of the commissioner may increase the value for any basic and standard factor greater than the maximum value and with the approval of the commissioner may increase cost sharing provisions including, but not limited to, basic and standard plan deductibles, coinsurance, or copayments.

Sec. 22. Section 514.3, Code 1999, is amended to read as follows:

514.3 APPROVAL BY COMMISSIONER.

The articles of incorporation, and any subsequent amendments, of ~~such~~ a corporation shall have endorsed ~~thereon~~ on or annexed ~~thereto~~ to[2] the approval of the commissioner of insurance before the same shall be filed for record. A corporation shall file with the commissioner bylaws and subsequent amendments to the bylaws within thirty days of the adoption of the bylaws and amendments.

Sec. 23. Section 514.4, unnumbered paragraph 7, Code 1999, is amended by striking the unnumbered paragraph.

Sec. 24. NEW SECTION. 514B.3A APPROVAL BY COMMISSIONER AND ATTORNEY GENERAL.

The articles of incorporation, and any subsequent amendment, of a corporation shall have endorsed on or annexed to such articles or amendment the approval of the commissioner of insurance and the attorney general before filing for record. A corporation shall file with the commissioner bylaws and subsequent amendments to the bylaws within thirty days of the adoption of the bylaws and amendments.

Sec. 25. Section 514B.24, unnumbered paragraph 1, Code 1999, is amended to read as follows:

The commissioner shall make an examination of the affairs of ~~any~~ a health maintenance organization and its providers as often as the commissioner deems necessary for the protection of the interests of the people of this state, but not less frequently than once every ~~three~~ five years.

Sec. 26. NEW SECTION. 514B.25A INSOLVENCY PROTECTION — ASSESSMENT.

1. Upon a health maintenance organization or organized delivery system authorized to do business in this state and licensed by the director of public health being declared insolvent by the district court, the commissioner may levy an assessment on each health maintenance organization or organized delivery system doing business in this state and licensed by the director of public health, as applicable, to pay claims for uncovered expenditures for enrollees. The commissioner shall not assess an amount in any one calendar year which is more than two percent of the aggregate premium written by each health maintenance organization or organized delivery system.

2. The commissioner may use funds obtained through an assessment under subsection 1 to pay claims for uncovered expenditures for enrollees of an insolvent health maintenance organization or organized delivery system and administrative costs. The commissioner, by rule, may prescribe the time, manner, and form for filing claims under this section. The commissioner may require claims to be allowed by an ancillary receiver or the domestic receiver or liquidator.

3. a. A receiver or liquidator of an insolvent health maintenance organization or organized delivery system shall allow a claim in the proceeding in an amount equal to uncovered expenditures and administrative costs paid under this section.

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[2] The phrase "endorsed on or annexed to such articles or amendment" probably intended

b. A person receiving benefits under this section for uncovered expenditures is deemed to have assigned the rights under the covered health care plan certificates to the commissioner to the extent of the benefits received. The commissioner may require an assignment of such rights by a payee, enrollee, or beneficiary, to the commissioner as a condition precedent to the receipt of such benefits. The commissioner is subrogated to these rights against the assets of the insolvent health maintenance organization or organized delivery system that are held by a receiver or liquidator of a foreign jurisdiction.

c. The assigned subrogation rights of the commissioner and allowed claims under this subsection have the same priority against the assets of the insolvent health maintenance organization or organized delivery system as those claims of persons entitled to receive benefits under this section or for similar expenses in the receivership or liquidation.

4. If funds assessed under subsection 1 are unused following the completion of the liquidation of an insolvent health maintenance organization or organized delivery system, the commissioner shall distribute the remaining amounts, if such amounts are not de minimis, to the health maintenance organizations or organized delivery systems that were assessed.

5. The aggregate coverage of uncovered expenditures under this section shall not exceed three hundred thousand dollars with respect to one individual. Continuation of coverage shall cease after the lesser of one year after the health maintenance organization or organized delivery system is terminated by insolvency or the remaining term of the contract. The commissioner may provide continuation of coverage on a reasonable basis, including, but not limited to, continuation of the health maintenance organization or organized delivery system contract or substitution of indemnity coverage in a form as determined by the commissioner.

6. The commissioner may waive an assessment of a health maintenance organization or organized delivery system if such organization or system is impaired financially or would be impaired financially as a result of such assessment. A health maintenance organization or organized delivery system that fails to pay an assessment within thirty days after notice of the assessment is subject to a civil forfeiture of not more than one thousand dollars for each day the failure continues, and suspension or revocation of its certificate of authority. An action taken by the commissioner to enforce an assessment under this section may be appealed by the health maintenance organization or organized delivery system pursuant to chapter 17A.

Sec. 27. Section 515.2, Code 1999, is amended to read as follows:

515.2 ARTICLES — APPROVAL.

Each such organization shall present to the commissioner of insurance its articles of incorporation, which shall show its name, objects, location of its principal place of business, and amount of its capital stock, who shall submit it to the attorney general for examination, and if found by the attorney general to be in accordance with the provisions of this title, the laws of the United States, and the Constitution and laws of the state, the attorney general shall certify such fact thereon and return the same to said commissioner, and no articles shall be approved by the commissioner or recorded unless accompanied with such certificate. A company shall file with the commissioner bylaws and subsequent amendments to the bylaws within thirty days of the adoption of the bylaws and amendments.

Sec. 28. Section 515.46, Code 1999, is amended to read as follows:

515.46 FORFEITURE OF CERTIFICATE OF AUTHORITY.

Any dividend made contrary to the provisions of ~~sections~~ section 515.44 ~~and 515.45~~ or rules adopted by the commissioner shall subject the company making it to forfeiture of its certificate of authority.

Sec. 29. Section 515.71, unnumbered paragraph 1, Code 1999, is amended to read as follows:

Every alien insurer authorized to transact business in this state shall at all times maintain a deposit with the commissioner of insurance in cash or in securities in which insurance companies are authorized to invest, of a sum equal to the greater of the reserve on all policies

covering risks located in this state or one million dollars. The securities shall be approved, and the amount of the deposit shall be determined, by the commissioner ~~in accordance with section 515.47~~. The commissioner, in the commissioner's discretion, may permit the withdrawal of interest earnings.

Sec. 30. Section 515B.2, subsection 5, Code 1999, is amended to read as follows:

5. "Insurer" means an insurer licensed to transact insurance business in this state under either chapter 515 or chapter 520, either at the time the policy was issued or when the insured event occurred. It does not include county or state mutual ~~assessment~~ insurance associations licensed under chapter 518 or chapter 518A, or fraternal beneficiary societies, orders, or associations licensed under chapter 512B, or corporations operating nonprofit service plans under chapter 514, or life insurance companies or life, accident, or health associations licensed under chapter 508, or those professions under chapter 519.

Sec. 31. Section 515C.3, Code 1999, is amended to read as follows:

515C.3 BASES FOR COMPUTATIONS.

The unearned premium reserve shall be computed ~~in accordance with section 515.47, except that all premiums on risks written for one year or less must be reserved on a monthly pro rata basis, and the reserve for those policies covering a risk period of more than five years shall be computed in accordance with formulae filed by the insurer and approved~~ pursuant to rules adopted by the commissioner of insurance.

Sec. 32. Section 515F.3, subsection 6, Code 1999, is amended to read as follows:

6. Insurance written by a county mutual ~~assessment~~ insurance association as provided in chapter 518A.[3]

Sec. 33. Section 515G.7, Code 1999, is amended to read as follows:

515G.7 REVIEW OF PLAN BY COMMISSIONER — HEARING AUTHORIZED — APPROVAL.

The commissioner of insurance shall review the plan. The commissioner shall approve the plan if the commissioner finds the plan complies with all provisions of law, the plan is ~~not unfair or inequitable~~ fair and equitable to the mutual insurer and its policyholders, and that the reorganized company will have the amount of capital and surplus deemed by the commissioner to be reasonably necessary for its future solvency. The commissioner may order a hearing on the fairness and equity of the terms of the plan after giving written notice of the hearing to the mutual insurer, and its policyholders, all of whom have the right to appear at the hearing.

Sec. 34. Section 515G.14, unnumbered paragraph 1, Code 1999, is amended to read as follows:

An action challenging the validity of a conversion plan, or any part of a conversion plan, shall not be commenced more than thirty days following the date of approval by the commissioner, unless an application for rehearing is filed pursuant to section 17A.16, subsection 2. If an application for rehearing is filed, then such action must be filed within thirty days after that application is denied or deemed denied or, if the application is granted, within thirty days after the issuance of the commissioner's final decision on rehearing.

Sec. 35. Section 518.7, Code 1999, is amended to read as follows:

518.7 OFFICERS AND DIRECTORS — ELECTION.

Officers or directors shall be elected in the manner and for the length of time prescribed in the articles of incorporation. The same person shall not simultaneously hold the offices of president and secretary. A director shall be a member of the association.

Sec. 36. Section 518.8, Code 1999, is amended to read as follows:

518.8 BYLAWS.

The directors of the association shall have the authority to enact such bylaws and regulations not inconsistent with law as they consider necessary for the regulation and conduct of the business. No change in the bylaws shall have the effect of limiting coverage under

[3] Iowa Code chapter 518 probably intended

existing policies of insurance. An association shall file with the commissioner bylaws and subsequent amendments to the bylaws within thirty days of the adoption of the bylaws and amendments.

Sec. 37. NEW SECTION. 518.13A ASSESSMENTS PROHIBITED.
An association doing business under this chapter shall not levy an assessment on any member of the association.

Sec. 38. Section 518.17, Code Supplement 1999, is amended to read as follows:
518.17 REINSURANCE.
A county mutual insurance association may reinsure a part or all of its ~~risks~~ coverages written pursuant to this chapter with ~~any~~ an association operating under ~~the provisions of~~ this chapter, or with any other association or company licensed in this state and authorized to write the kinds of insurance enumerated in section 518.11.
Reinsurance sufficient to protect the financial stability of the state mutual association is also required. Reinsurance coverage obtained by a county mutual insurance association shall not expose the association to ~~a loss~~ losses from coverages written pursuant to this chapter of more than fifteen percent from surplus in any calendar year. The commissioner of insurance may require additional reinsurance if necessary to protect the policyholders of the association.

Sec. 39. Section 518.23, Code 1999, is amended to read as follows:
518.23 CANCELLATION OF POLICIES.
1. CANCELLATION BY INSURED. ~~Any~~ A policy shall be canceled at any time at the request of the insured upon the return of the policy to the home office of the association, and the payment of all premium charges against such policy~~; or by the association by giving five days' notice of such cancellation~~. ~~Such service~~
2. CANCELLATION BY ASSOCIATION.
a. Except as provided in paragraph "b", notice of cancellation is not effective unless mailed or delivered by the association to the named insured at least twenty days before the effective date of cancellation.
b. Notice of cancellation resulting from nonpayment of a premium or installment provided for in the policy, or provided for in a note or contract for the payment of such premium or installment, is not effective unless mailed or delivered by the association to the named insured at least ten days prior to the date of cancellation.
c. If a notice of cancellation under paragraph "a" or "b" fails to include the reason for such cancellation, the association, upon receipt of a timely request by the named insured, shall provide in writing the reason for the cancellation.
3. NONRENEWAL BY ASSOCIATION. A notice of intention not to renew is not effective unless mailed or delivered by the insurer to the named insured at least thirty days prior to the expiration date of the policy. If the reason does not accompany the notice of nonrenewal, the association, upon receipt of a timely request by the named insured, shall provide the reason for the nonrenewal in writing.
4. NOTICE. Service of notice under subsection 2 or 3 may be made in person, or by mailing such notice by certified mail deposited in the post office and directed to the insured at the insured's post office address as given in or upon the policy, or to such other address as the insured shall have given to the association in writing. A post office department receipt of certified or registered mail shall be deemed proof of receipt of such notice. If in either case the cash payments ~~shall~~ exceed the amount properly chargeable, the excess ~~will~~ shall be refunded to the insured upon the surrender of the policy to the association at its home office.

Sec. 40. Section 518A.6, Code 1999, is amended to read as follows:
518A.6 OFFICERS — ELECTION.
Officers or directors shall be elected in the manner and for the length of time prescribed in the articles of incorporation or bylaws. The same person shall not simultaneously hold the offices of president and secretary. A director shall be a member of the association.

Sec. 41. NEW SECTION. 518A.6A BYLAWS.

The directors of the association may enact the bylaws and regulations not inconsistent with law as they consider necessary for the regulation and conduct of the business. A change in the bylaws shall not limit coverage under existing policies of insurance. An association shall file with the commissioner bylaws and amendments to bylaws within thirty days of adoption.

Sec. 42. Section 518A.7, Code 1999, is amended to read as follows:

518A.7 POLICIES — ISSUANCE — CONDITIONS.

~~No~~ A state mutual ~~assessment~~ insurance association shall not issue policies until at least one hundred twenty-five applications have been received in any class as shown by section 518A.1, representing the following amount of insurance: Classes one, two, three, and five, two hundred fifty thousand dollars each; class four, one hundred thousand dollars, and ~~no county mutual assessment association shall issue policies until applications for insurance to the amount of fifty thousand dollars representing at least fifty applicants have been received, and no~~ an application for insurance during the period of organization shall not exceed two percent of the amount required for organization, or after one year of organization, one percent of the total insurance in force, any reinsurance taking effect simultaneously with the policy being deducted in determining such maximum single risk.

Sec. 43. Section 518A.9, Code 1999, is amended by striking the section and inserting in lieu thereof the following:

518A.9 PREMIUM CHARGES.

An association, by action of its board of directors, may establish premium charges for the purpose of payment of losses and expenses and for the establishment or maintenance of a reserve fund.

A policy shall stand suspended if any default is made in the payment of any premium on or before the date specified in a written notice requiring the payment of such premium and mailed to the insured and directed to the insured's last known address not less than thirty days prior to such suspension date. The notice shall specify the amount and due date of the premium. The association is not liable for any loss occurring during such period of suspension.

Sec. 44. NEW SECTION. 518A.9A ASSESSMENTS PROHIBITED.

An association doing business under this chapter shall not levy an assessment on any member of the association.

Sec. 45. Section 518A.12, subsection 1, paragraphs a and c, Code 1999, are amended to read as follows:

a. This section applies to the investments of state mutual ~~casualty assessment~~ insurance associations.

c. Financial terms relating to state mutual ~~casualty assessment~~ insurance associations have the meanings assigned to them under statutory accounting methods. Financial terms relating to companies other than state mutual ~~casualty assessment~~ insurance associations have the meanings assigned to them under generally accepted accounting principles.

Sec. 46. Section 518A.18, Code 1999, is amended to read as follows:

518A.18 ANNUAL REPORT.

An association doing business under this chapter ~~shall~~, on or before March 1 of each year, ~~report to the commissioner of insurance the facts required of domestic insurance companies organizing under chapter 515, which are applicable to this chapter. These reports~~ shall prepare under oath and file with the commissioner of insurance an accurate and complete statement of the condition of the association as of the last day of the preceding calendar year. The statement shall conform to the annual statement blank prepared pursuant to instructions prescribed by the commissioner. All financial information reflected in the

annual report shall be kept and prepared pursuant to accounting practices and procedures prescribed by the commissioner. Statements filed with the commissioner pursuant to this section shall be tabulated and published by the commissioner of insurance in the annual report of insurance.

Sec. 47. Section 518A.29, Code 1999, is amended by striking the section and inserting in lieu thereof the following:

518A.29 CANCELLATION BY ASSOCIATION — NOTICE.

1. CANCELLATION BY INSURED. A policy shall be canceled at any time at the request of the insured upon the return of the policy to the home office of the association and the payment of all premium charges against such policy.

2. CANCELLATION BY ASSOCIATION.

a. Except as provided in paragraph "b", notice of cancellation is not effective unless mailed or delivered by the association to the named insured at least twenty days before the effective date of cancellation.

b. Notice of cancellation resulting from nonpayment of a premium or installment provided for in the policy, or provided for in a note or contract for the payment of such premium or installment, is not effective unless mailed or delivered by the association to the named insured at least ten days prior to the date of cancellation.

c. If a notice of cancellation under paragraph "a" or "b" fails to include the reason for such cancellation, the association, upon receipt of a timely request by the named insured, shall provide the reason for the cancellation in writing.

3. NONRENEWAL BY ASSOCIATION. A notice of intention not to renew is not effective unless mailed or delivered by the insurer to the named insured at least thirty days prior to the expiration date of the policy. If the reason does not accompany the notice of nonrenewal, the association, upon receipt of a timely request by the named insured, shall provide in writing the reason for the nonrenewal.

4. NOTICE. Service of notice under subsection 2 or 3 may be made in person, or by mailing such notice by certified mail deposited in the post office and directed to the insured at the insured's post office address as given in or upon the policy, or to such other address as the insured shall have given to the association in writing. A post office department receipt of certified or registered mail shall be deemed proof of receipt of such notice. If in either case the cash payments exceed the amount properly chargeable, the excess shall be refunded upon the surrender of the policy to the association at its home office.

Sec. 48. Section 518A.35, Code 1999, is amended to read as follows:

518A.35 ANNUAL TAX.

~~Every~~ A state mutual insurance association doing business under this chapter shall on or before the first day of March, each year, pay to the director of the department of revenue and finance, or a depository designated by the director, a sum equivalent to two percent of the gross receipts from premiums~~, assessments,~~ and fees~~, and promissory obligations~~ for business done within the state, including all insurance upon property situated in the state without including or deducting any amounts received or paid for reinsurance ~~except that any~~. However, a company reinsuring windstorm or hail risks written by county mutual associations ~~shall be~~ is required to pay a two percent tax on the gross amount of reinsurance premiums received upon such risks, but after deducting the amount returned upon canceled policies and rejected applications covering property situated within the state, and dividends returned to policyholders on property situated within the state.

Sec. 49. Section 518A.44, Code Supplement 1999, is amended to read as follows:

518A.44 REINSURANCE.

A state mutual insurance association may reinsure a part or all of its ~~risks~~ coverages written pursuant to this chapter with ~~any~~ an association operating under ~~the provisions of~~ this chapter, or with any other association or company licensed in this state and authorized to write the kinds of insurance enumerated in section 518A.1.

Reinsurance sufficient to protect the financial stability of the state mutual insurance association is required. Reinsurance coverage obtained by an association shall not expose the association to ~~a loss~~ losses from coverages written pursuant to this chapter of more than fifteen percent from surplus in any calendar year. The commissioner of insurance may require additional reinsurance if necessary to protect the policyholders of the association.

Sec. 50. Section 518A.52, Code 1999, is amended to read as follows:

518A.52 FORM — APPROVAL.

The form of all policies, applications, agreements, and endorsements modifying the provisions of policies, and all permits and riders used in this state, issued or proposed to be issued by a state mutual ~~casualty assessment~~ insurance association doing business in this state under ~~the provisions of~~ this chapter, shall first be examined and approved by the commissioner of insurance.

Sec. 51. Section 518A.53, Code 1999, is amended to read as follows:

518A.53 FAILURE TO FILE COPY.

Upon the failure of a state mutual ~~casualty assessment~~ insurance association to file a copy of its forms of policies or contracts pursuant to section 518A.52, the commissioner of insurance may suspend its authority to transact business within the state until such forms of policies or contracts have been filed and approved.

Sec. 52. Section 518A.54, Code 1999, is amended to read as follows:

518A.54 DISAPPROVAL OF FILINGS.

If the commissioner finds that a filing does not meet the requirements of this chapter, written notice of disapproval shall be sent to the state mutual ~~casualty assessment~~ insurance association specifying in what respect the filing fails to meet the requirements of this chapter and stating that the filing is not effective. If a filing is disapproved by the commissioner, the association may request a hearing on the disapproval within thirty days. The association bears the burden of proving compliance with the standards established by this chapter.

If, at any time after a form has been approved, the commissioner finds that the form no longer meets the requirements of this chapter, the commissioner may order the discontinuance of the use of the form. The order of discontinuance shall be in writing and may be issued only after a hearing with at least ten days' prior notice to all state mutual ~~casualty assessment~~ insurance associations affected by the order. The order shall state the grounds upon which the order is based and when the order of discontinuance is effective.

Sec. 53. Section 518A.55, Code 1999, is amended to read as follows:

518A.55 CERTIFICATE SUSPENSION.

The commissioner of insurance may suspend a state mutual ~~casualty assessment~~ insurance association's certificate of authority to do business if the association neglects or fails to comply with this chapter.

Sec. 54. Section 519.10, Code 1999, is amended to read as follows:

519.10 POWERS OF COMMISSIONER.

The commissioner of insurance shall have and exercise the same control over such corporations as the commissioner now has over state mutual ~~assessment~~ insurance associations organized and doing business under chapter 518A.

Sec. 55. Section 519.11, Code Supplement 1999, is amended to read as follows:

519.11 LIABILITY TO ASSESSMENTS.

The provisions as to maximum liability of members to assessments when assets are insufficient and to assessments when the corporation is insolvent, found in ~~sections~~ section 518A.9 ~~and 518A.14~~, shall apply to all mutual insurance corporations organized under this chapter.

Sec. 56. Section 521E.1, subsection 4, paragraph e, Code 1999, is amended to read as follows:

e. A state mutual ~~casualty assessment~~ insurance association organized under chapter 518A.

Sec. 57. Section 522.3, unnumbered paragraph 3, Code 1999, is amended by striking the unnumbered paragraph.

Sec. 58. Section 573.3, Code 1999, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. A public corporation, with respect to a public improvement which is or has been competitively bid or negotiated, shall not require a contractor to procure a bond, as required under section 573.2, from a particular insurance or surety company, agent, or broker.

Sec. 59. Sections 515.45, 515.47, 518A.11, 518A.14, 518A.15, 518A.30, 518A.31, and 518A.32, Code 1999, are repealed.

Sec. 60. EFFECTIVE DATES.

1. Section 8 of this Act, which amends section 508B.3, and section 10 of this Act, which amends section 508B.7, being deemed of immediate importance, take effect upon enactment.

2. Section 17 of this Act, which amends section 511.8 by striking subsection 17, paragraph "b", section 28 of this Act, which amends section 515.46, section 29 of this Act, which amends section 515.71, and section 31 of this Act, which amends section 515C.3, and the repeal of sections 515.45 and 515.47, take effect on January 1, 2001.

Approved March 30, 2000

CHAPTER 1024

LIMITED PARTNERSHIPS — TRANSITION TO LIMITED LIABILITY LIMITED PARTNERSHIP STATUS

H.F. 2239

AN ACT relating to limited partnerships by providing for such partnerships to become limited liability limited partnerships, providing for related matters, and providing an effective date.

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

Section 1. Section 9H.1, subsection 16, Code Supplement 1999, is amended to read as follows:

16. "Limited partnership" means a partnership as defined in section 487.101, subsection 7, and a limited liability limited partnership under section 487.1301, which owns or leases agricultural land or is engaged in farming.

Sec. 2. Section 10B.1, subsection 8, Code 1999, is amended to read as follows:

8. "Limited partnership" means a foreign or domestic limited partnership, including a limited partnership as defined in section 487.101, subsection 7, and a domestic or foreign limited liability limited partnership under section 487.1301 or 487.1303.

Sec. 3. Section 487.109, subsection 1, paragraph l, Code 1999, is amended to read as follows:

l. Statement of qualification of limited liability limited partnership ..... $ 50

m. Amendment to statement of qualification of limited liability limited partnership	$	20
n. Cancellation of statement of qualification	$	20
o. Application for registration of foreign limited liability limited partnership and also issuance of a certificate of registration to transact business in this state	$	100
p. Amendment to application for registration of foreign limited liability limited partnership	$	100
q. Cancellation of registration of foreign limited liability limited partnership	$	20
~~l.~~ r. Any other document required or permitted to be filed	$	5

Sec. 4. Section 487.1103, Code 1999, is amended to read as follows:

487.1103 CASES NOT PROVIDED FOR IN THIS CHAPTER.

In a case not provided for in this chapter, chapter ~~486~~ 486A governs.

Sec. 5. NEW SECTION. 487.1301 LIMITED LIABILITY LIMITED PARTNERSHIP.

1. A limited partnership may become a limited liability limited partnership pursuant to this section.

2. The terms and conditions on which a limited partnership becomes a limited liability limited partnership must be approved by the vote necessary to amend the limited partnership agreement except, in the case of a limited partnership agreement that expressly considers obligations to contribute to the limited partnership, by[1] the vote necessary to amend those provisions.

3. After the approval required by subsection 2, a limited partnership may become a limited liability limited partnership by filing a statement of qualification. The statement must contain all of the following:

a. The name of the limited partnership.

b. The street address of the limited partnership's chief executive office and, if different, the street address of an office in this state, if any.

c. The address of a registered office and the name and address of a registered agent for service of process in this state, which the limited partnership is required to maintain as provided in section 487.104.

d. A statement that the limited partnership elects to be a limited liability limited partnership.

e. A deferred effective date, if any.

4. The filing of a statement of qualification establishes that a limited partnership has satisfied all conditions precedent to the qualification of the limited partnership as a limited liability limited partnership.

5. A limited liability limited partnership continues to be the same entity that existed before the filing of the statement of qualification under subsection 3.

6. Section 486A.306, subsection 3, and section 486A.307, subsection 4, apply to both general and limited partners of a limited liability limited partnership in the same manner as those provisions apply to a partnership and a partner under chapter 486A.

Sec. 6. NEW SECTION. 487.1302 NAME.

The name of a limited liability limited partnership must end with "Registered Limited Liability Limited Partnership", "Limited Liability Limited Partnership", "R.L.L.L.P.", "L.L.L.P.", "RLLLP", or "LLLP".

Sec. 7. NEW SECTION. 487.1303 FOREIGN LIMITED LIABILITY LIMITED PARTNERSHIP.

Sections 487.901 through 487.911 shall apply to a foreign limited liability limited partnership in the same manner as those sections apply to a foreign limited partnership. For purposes of section 487.904, a foreign limited liability limited partnership may register with

[1] According to enrolled Act

the secretary of state under a name that could be registered by a domestic limited liability limited partnership even if it is not the name under which the foreign limited liability limited partnership is registered in its state of organization.

Sec. 8. EFFECTIVE DATE. Section 4 of this Act, which amends section 487.1103, takes effect on January 1, 2001.

Approved March 30, 2000

CHAPTER 1025

PROOF OF MOTOR VEHICLE FINANCIAL RESPONSIBILITY

H.F. 2248

AN ACT relating to alternate methods of providing proof of motor vehicle financial responsibility and providing an effective date.

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

Section 1. Section 321.1, subsection 24B, paragraph c, Code Supplement 1999, is amended to read as follows:

c. A valid ~~certificate of deposit of money or security~~ statement issued by the treasurer of state pursuant to section 321A.25 attesting to the filing of a certificate of deposit with the treasurer of state.

Sec. 2. Section 321A.18, Code 1999, is amended to read as follows:

321A.18 ALTERNATE METHODS OF GIVING PROOF.

Proof of financial responsibility when required under this chapter may be given by filing any of the following:

1. A certificate of insurance as provided in section 321A.19 or section 321A.20~~; or~~.

2. A bond as provided in section 321A.24~~; or~~.

3. A ~~certificate of deposit of money or securities~~ statement issued by the treasurer of state attesting to the filing of a certificate of deposit with the treasurer of state as provided in section 321A.25.

Sec. 3. Section 321A.25, Code 1999, is amended to read as follows:

321A.25 ~~MONEY OR SECURITIES~~ CERTIFICATE OF DEPOSIT AS PROOF.

1. Proof of financial responsibility may be evidenced by the ~~certificate~~ statement of the treasurer of state that the person named in the ~~certificate~~ statement has ~~deposited~~ filed with the treasurer of state fifty-five thousand dollars in ~~cash, or securities which may legally be purchased by a state bank or trust funds of a market value of fifty-five thousand dollars~~ the form of an endorsed certificate of deposit made payable jointly to the person and the treasurer of state. The certificate of deposit shall be obtained from an Iowa financial institution in the amount of fifty-five thousand dollars plus any early withdrawal penalty fee. The treasurer of state shall promptly notify the director of transportation of the name and address of the person to whom the ~~certificate~~ statement has been issued. Upon receipt of the notification, the director of transportation shall issue to the person a security insurance card for each motor vehicle registered in this state by the person. The security insurance card shall state the name and address of the person and the registration number of the motor vehicle for which the card is issued. The treasurer of state shall not accept a certificate of

deposit and issue a ~~certificate~~ statement for it and the department shall not accept the ~~certificate~~ statement unless accompanied by evidence that there are no unsatisfied judgments of any character against the ~~depositor~~ person in the county where the ~~depositor~~ person resides.

2. Such certificate of deposit shall be held by the ~~state~~ treasurer of state to satisfy, in accordance with ~~the provisions of~~ this chapter, any execution on a judgment issued against ~~such~~ the person ~~making~~ filing the certificate of deposit, for damages, including damages for care and loss of services, because of bodily injury to or death of any person, or for damages because of injury to or destruction of property, including the loss of use ~~thereof~~ of property, resulting from the ownership, maintenance, use, or operation of a motor vehicle after ~~such~~ the certificate of deposit was ~~made~~ filed. ~~Money or securities~~ A certificate of deposit so ~~deposited~~ filed shall not be subject to attachment or execution unless ~~such~~ the attachment or execution ~~shall arise~~ arises out of a suit for damages as ~~aforesaid~~ previously provided in this subsection.

Sec. 4. Section 321A.27, Code 1999, is amended to read as follows:

321A.27 SUBSTITUTION OF PROOF.

The department shall consent to the cancellation of ~~any~~ a bond or certificate of insurance or the department shall direct and the ~~state~~ treasurer of state shall return ~~any money or securities~~ a certificate of deposit to the person entitled ~~thereto~~ to the certificate of deposit upon the substitution and acceptance of other adequate proof of financial responsibility pursuant to this chapter.

Sec. 5. Section 321A.29, Code 1999, is amended to read as follows:

321A.29 DURATION OF PROOF — WHEN PROOF MAY BE CANCELED OR RETURNED.

1. The department shall upon request consent to the immediate cancellation of ~~any~~ a bond or certificate of insurance, or the department shall direct and the ~~state~~ treasurer of state shall return to the person entitled thereto ~~any money or securities deposited~~ a certificate of deposit filed pursuant to this chapter as proof of financial responsibility, or the department shall waive the requirement of filing proof, in any of the following events:

a. At any time after two years from the date such proof was required when, during the two-year period preceding the request, the department has not received record of a conviction or a forfeiture of bail which would require or permit the suspension or revocation of the license, registration, or nonresident's operating privilege of the person by or for whom such proof was furnished~~; or~~.

b. In the event of the death of the person on whose behalf such proof was filed or the permanent incapacity of such person to operate a motor vehicle~~; or~~.

c. In the event the person who has given proof surrenders the person's license and registration to the department~~;~~.

2. ~~Provided, however, that the~~ The department shall not consent to the cancellation of ~~any~~ a bond or the return of ~~any money or securities~~ a certificate of deposit in the event ~~any~~ an action for damages upon a liability covered by such proof is then pending or ~~any~~ a judgment upon any such liability is ~~then~~ unsatisfied, or in the event the person who has filed such bond or ~~deposited~~ such ~~money or securities~~ certificate of deposit has within one year immediately preceding such request been involved as an operator or owner in any motor vehicle accident resulting in injury or damage to the person or property of others. An affidavit of the applicant as to the nonexistence of such facts, or that the applicant has been released from all of the applicant's liability, or has been finally adjudicated not to be liable, for such injury or damage, shall be sufficient evidence thereof in the absence of evidence to the contrary in the records of the department.

3. ~~Whenever any person~~ If a person whose proof has been canceled or returned under ~~paragraph "c" of subsection 1 of this section~~ subsection 1, paragraph "c", applies for a license or registration within a period of two years from the date proof was originally required, ~~any~~ such application shall be refused unless the applicant ~~shall re-establish such~~ reestablishes proof for the remainder of the two-year period.

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

Approved March 30, 2000

CHAPTER 1026

LINKED INVESTMENT PROGRAMS — QUALIFICATION PERIOD

H.F. 2329

AN ACT extending the time period to qualify for certain linked investment programs and providing an effective date.

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

Section 1. 1999 Iowa Acts, chapter 177, section 7, is amended to read as follows:

SEC. 7. CURRENT INVESTMENT AGREEMENTS.

1. ~~The~~ Except as provided in subsections 2 and 3, the treasurer of state shall not renew a certificate of deposit in an eligible lending institution, if the total term for the certificate of deposit exceeds the requirements of section 12.34, subsection 3, as amended by this Act. ~~However, nothing~~

2. Nothing in this Act shall affect the terms or conditions of an investment agreement executed by the treasurer of state with an eligible lending institution that is in effect on the effective date of this Act.

3. a. The treasurer of state may renew a certificate of deposit in an eligible lending institution as part of a linked investment loan package and in accordance with the investment agreement, as provided in this subsection, if all of the following apply:

(1) The investment agreement was executed prior to May 24, 1999.

(2) The eligible lending institution executed a loan agreement with the eligible borrower listed in the linked investment loan package prior to May 24, 1999, and the loan agreement applies on and after May 24, 1999.

(3) The eligible borrower continues to meet the conditions of an eligible borrower as provided in chapter 12, Code 1999.

b. The treasurer of state may renew the certificate of deposit on an annual basis until the earlier of the following:

(1) The termination of the loan agreement executed by the eligible lending institution and the eligible borrower.

(2) The last year that the certificate of deposit may be renewed as provided in section 12.34, Code 1999.

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

Approved March 30, 2000

CHAPTER 1027

SEXUAL ABUSE AND SEXUAL EXPLOITATION — STATUTE OF LIMITATIONS

H.F. 2420

AN ACT relating to the statute of limitations for filing a sexual abuse or sexual exploitation criminal indictment or information.

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

Section 1. Section 802.2, Code 1999, is amended to read as follows:

802.2 SEXUAL ABUSE ~~OF PERSON UNDER THE AGE OF EIGHTEEN~~.

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 ~~five~~ ten years after the person upon whom the offense is committed attains eighteen years of age.

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.

Sec. 2. Section 802.3, subsection 2, Code 1999, is amended to read as follows:

2. An indictment or information for sexual exploitation by a counselor or therapist under section 709.15 shall be found within ~~five~~ ten years of the date the victim was last treated by the counselor or therapist.

Approved March 30, 2000

CHAPTER 1028

MOTOR VEHICLE REGISTRATION PERIODS

H.F. 2480

AN ACT relating to motor vehicle registration periods and providing an effective date.

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

Section 1. Section 321.24, unnumbered paragraph 9, Code Supplement 1999, is amended to read as follows:

A vehicle shall be registered for the registration year. A vehicle registered for the first time in this state shall be registered for the remaining unexpired months of the registration year and pay a registration fee prorated for the remaining unexpired months of the registration year. Except for a vehicle registered under chapter 326, a vehicle registered for the first time during the eleventh month of the owner's registration year may be registered for the remaining unexpired months of the registration year as provided in this paragraph or for the remaining unexpired months of the registration year and for the next registration year, upon payment of the applicable registration fees.

Sec. 2. Section 321.40, unnumbered paragraphs 1 and 2, Code 1999, are amended to read as follows:

Application for renewal of a vehicle registration shall be made on or after the first day of the month prior to the month of expiration of registration and up to and including the last

day of the month following the month of expiration of registration. The registration shall be renewed upon payment of the appropriate registration fee. Application for renewal for a vehicle registered under chapter 326 shall be made on or after the first day of the month of expiration of registration and up to and including the last day of the month following the month of expiration of registration.

On or before the fifteenth day of the eleventh month ~~of expiration~~ of a vehicle's registration year the county treasurer shall send a statement by mail of fees due to the appropriate owner of record. The statement shall be mailed to the most current address of record, showing information sufficient to identify the vehicle and a listing of the various fees as appropriate. Failure to receive a statement shall have no effect upon the accrual of penalty at the appropriate date.

Sec. 3. Section 321.106, Code 1999, is amended to read as follows:

321.106 REGISTRATION FOR FRACTIONAL PART OF YEAR.

1. When a vehicle is registered under chapter 326 or a motor truck, truck tractor, or road tractor is registered for a combined gross weight exceeding five tons and there is no delinquency and the registration is made in February or succeeding months through November, the registration fee shall be prorated for the remaining unexpired months of the registration year. A fee shall not be required for the month of December for a vehicle registered on a calendar year basis on which there is no delinquency. However, except for a vehicle registered under chapter 326, when such a vehicle is registered in November, the vehicle may be registered for the remaining unexpired months of the registration year or for the remaining unexpired months of the registration year and for the next registration year, upon payment of the applicable registration fees.

2. When a vehicle is registered on a birth month basis and there is no delinquency and the registration is made in the month after the beginning of the registration year or succeeding months the registration fee shall be prorated for the remaining unexpired months of the registration year. A fee shall not be required for the month of the owner's birthday for a vehicle on which there is no delinquency. However, when a vehicle registered on a birth month basis is registered during the eleventh month of the registration year, the vehicle may be registered for the remaining unexpired months of the registration year or for the remaining unexpired months of the registration year and for the next registration year, upon payment of the applicable registration fees.

3. If a fee computed under this section contains a fractional part of a dollar, the fee shall be computed to the nearest whole dollar. A fee computed under this section shall not be less than five dollars. The fee so computed shall be deemed to be the annual registration fee for the remainder of the registration year.

4. A reduction in the registration fee shall not be allowed by the department until the applicant files satisfactory evidence to prove that there is no delinquency in registration.

Sec. 4. EFFECTIVE DATE. This Act takes effect July 1, 2001.

Approved March 30, 2000

CHAPTER 1029

MEDICAL ASSISTANCE ADVISORY COUNCIL MEMBERSHIP

S.F. 174

AN ACT changing a Code reference to the Iowa association of community providers and providing an effective date.

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

Section 1. Section 249A.4, subsection 8, unnumbered paragraph 1, Code 1999,[1] is amended to read as follows:

Shall advise and consult at least semiannually with a council composed of the presidents of the following organizations, or a president's representative who is a member of the organization represented by the president: the Iowa medical society, the Iowa osteopathic medical association, the Iowa academy of family physicians, the Iowa physical therapy association, the Iowa state dental society, the Iowa state nurses association, the Iowa pharmacists association, the Iowa podiatry society, the Iowa optometric association, the ~~community mental health centers association of~~ Iowa association of community providers, the Iowa psychological association, the association of Iowa hospitals and health systems, the Iowa association of rural health clinics, the Iowa osteopathic hospital association, opticians' association of Iowa, inc., the Iowa hearing aid society, the Iowa speech, language, and hearing association, the Iowa health care association, the Iowa association for home care, the Iowa council of health care centers, the Iowa physician assistant society, the Iowa association of nurse practitioners, the Iowa occupational therapy association, and the Iowa association of homes and services for the aging, ~~the Iowa psychiatric nurse managers network,~~ the arc of Iowa which was formerly known as the association for retarded citizens of Iowa, the alliance for the mentally ill of Iowa, Iowa state association of counties, and the Iowa governor's planning council for developmental disabilities, together with one person designated by the Iowa state board of chiropractic examiners; one state representative from each of the two major political parties appointed by the speaker of the house, one state senator from each of the two major political parties appointed by the president of the senate, after consultation with the majority leader and the minority leader of the senate, each for a term of two years; four public representatives, appointed by the governor for staggered terms of two years each, none of whom shall be members of, or practitioners of, or have a pecuniary interest in any of the professions or businesses represented by any of the several professional groups and associations specifically represented on the council under this subsection, and at least one of whom shall be a recipient of medical assistance; the director of public health, or a representative designated by the director; and the dean of the college of medicine, university of Iowa, or a representative designated by the dean.

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

Approved March 31, 2000

[1] Code Supplement 1999 probably intended

CHAPTER 1030

SEXUALLY PREDATORY OFFENSES

S.F. 2015

AN ACT relating to the enhanced criminal penalties associated with sexually predatory offenses and providing an effective date.

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

Section 1. Section 901A.1, subsection 1, paragraph b, Code 1999, is amended by striking the paragraph.

Sec. 2. Section 901A.1, subsection 2, Code 1999, is amended to read as follows:

2. As used in this chapter, the term "prior conviction" includes a plea of guilty, deferred judgment, deferred or suspended sentence, or adjudication of delinquency, regardless of whether a prior conviction occurred before, on, or after the effective date of this Act.

Sec. 3. Sections 901A.3 and 901A.4, Code 1999, are repealed.

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

Approved March 31, 2000

CHAPTER 1031

UPPER MISSISSIPPI RIVERWAY COMPACT — REPEAL

S.F. 2036

AN ACT to repeal the upper Mississippi riverway compact.

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

Section 1. Chapter 463A and section 97B.55, Code 1999, are repealed.

Approved March 31, 2000

CHAPTER 1032

PROCEDURES ADMINISTERED BY CLERK OF COURT

S.F. 2212

AN ACT concerning the administration of clerk of court offices.

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

Section 1. Section 6B.4, unnumbered paragraph 2, Code Supplement 1999, is amended to read as follows:

The chief judge of the judicial district shall select by lot six persons from the list, two persons who are owner-operators of agricultural property when the property to be condemned is agricultural property; two persons who are owners of city property when the property to be condemned is other than agricultural property; and two persons from each of the remaining two representative groups, who shall constitute a compensation commission to assess the damages to all property to be taken by the applicant and located in the county, and shall name a chairperson from the persons selected. A person shall not be selected as a member of the compensation commission if the person possesses any interest in the proceeding which would cause the person to render a biased decision. The ~~clerk of the district court~~ applicant shall send, by ordinary mail, a list of those persons selected to the ~~applicant and to the~~ owner of the property at the owner's last known address and shall file proof of the mailing with the sheriff. The list shall be provided prior to the mailing, by any party, of a notice of assessment under section 6B.8. If the ~~clerk of the district court~~ applicant is unable to locate an address for the owner of the property, the list shall be published once in a newspaper of general circulation in the county. ~~The applicant shall reimburse the clerk of the district court for the cost of mailing and publication.~~

Sec. 2. Section 450.24, Code 1999, is amended to read as follows:

450.24 APPRAISERS.

In each county the court shall, on or before January 15 of ~~each~~ the year an appointment is required, appoint three competent residents and freeholders of the county to act as appraisers of the real property within its jurisdiction which is charged or sought to be charged with an inheritance tax. The appraisers shall serve for ~~one year~~ four years, and until their successors are appointed and qualified. They shall each take an oath to faithfully and impartially perform the duties of the office, but shall not be required to give bond. They shall be subject to removal at any time at the discretion of the court. The court may also in its discretion, either before or after the appointment of the regular appraisers, appoint other appraisers to act in any given case. Vacancies occurring otherwise than by expiration of term shall be filled by appointment of the court. A person interested in any manner in the estate to be appraised shall not serve as an appraiser of that estate.

Sec. 3. Section 624.20, Code 1999, is amended to read as follows:

624.20 SATISFACTION OF JUDGMENT.

Where a judgment is set aside or satisfied by execution or otherwise, the clerk shall at once enter a memorandum thereof on the column left for that purpose in the judgment docket. However, the clerk may enter satisfaction of judgment if the amount of the judgment that is unsatisfied is one dollar or less.

Sec. 4. Section 804.21, subsection 6, Code 1999, is amended to read as follows:

6. This section does not prevent the release of the arrested person pending initial appearance upon the furnishing of bail in the amount endorsed on the warrant. The initial appearance of a person so released shall be scheduled for a time not more than ~~ten~~ thirty days after the date of release.

Sec. 5. Section 804.22, unnumbered paragraph 2, Code 1999, is amended to read as follows:

This section and the rules of criminal procedure do not affect the provisions of chapter 805 authorizing the release of a person on citation or bail prior to initial appearance. The initial appearance of a person so released shall be scheduled for a time not more than ~~ten~~ thirty days after the date of release.

Sec. 6. Section 811.6, subsection 1, Code 1999, is amended to read as follows:

1. A defendant released pursuant to this chapter shall appear at arraignment, trial, judgment, or such other proceedings where the defendant's appearance is required. If the defendant fails to appear at the time and place when the defendant's personal appearance is lawfully required, or to surrender in execution of the judgment, the court must direct an entry of the failure to be made of record, and the undertaking of the defendant's bail, or the money deposited, is thereupon forfeited. As a part of the entry, except as provided in R.Cr.P. 53, the court shall direct the ~~sheriff~~ clerk of the district court of the county to give ten days' notice in writing to the defendant and the defendant's sureties to appear and show cause, if any, why judgment should not be entered for the amount of bail. If such appearance is not made, judgment shall be entered by the court. If appearance is made, the court shall set the case down for immediate hearing as an ordinary action.

Sec. 7. Section 910.9, Code 1999, is amended to read as follows:

910.9 COLLECTION OF PAYMENTS — PAYMENT BY CLERK OF COURT.

An offender making restitution pursuant to a restitution plan of payment shall make the payment monthly to the clerk of court of the county from which the offender was sentenced, unless the restitution plan of payment provides otherwise. If the restitution plan authorizes payment to an entity other than the clerk of court, that entity shall regularly file a partial or full satisfaction of judgment with the clerk of court concerning amounts collected by that entity.

The clerk of court shall maintain a record of all receipts and disbursements of restitution payments and shall disburse all moneys received to the victims designated in the plan of restitution. If there is more than one victim, disbursements to the victims shall be on the basis of the victim's percentage of the total owed by the offender to all victims, except that the clerk of court may decide the allocation of payments owed to a victim of ~~twenty~~ twenty-five dollars or less.

Fines, penalties, and surcharges, crime victim compensation program reimbursement, public agency restitution, court costs including correctional fees claimed by a sheriff pursuant to section 356.7, court-appointed attorney's fees, and expenses for public defenders, shall not be withheld by the clerk of court until all victims have been paid in full. Payments to victims shall be made by the clerk of court at least quarterly. Payments by a clerk of court shall be made no later than the last business day of the quarter, but may be made more often at the discretion of the clerk of court. The clerk of court receiving final payment from an offender~~,~~ shall notify all victims that full restitution has been made~~, and a copy of the notice shall be sent to the sentencing court~~. Each office or individual charged with supervising an offender who is required to perform community service as full or partial restitution shall keep records to assure compliance with the portions of the plan of restitution and restitution plan of payment relating to community service and, when the offender has complied fully with the community service requirement, notify the sentencing court.

Approved March 31, 2000

CHAPTER 1033

LEAVES OF ABSENCE FOR PARTISAN POLITICAL CANDIDATES — SHERIFFS AND CIVIL SERVICE OFFICERS AND EMPLOYEES

S.F. 2215

AN ACT striking a mandatory leave of absence for a civil service officer or employee, or a deputy sheriff who is a candidate for partisan public office, and providing an effective date.

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

Section 1. Section 341A.18, unnumbered paragraph 8, Code 1999, is amended to read as follows:

An officer or employee subject to civil service and a chief deputy sheriff or second deputy sheriff, who becomes a candidate for a partisan elective office for remuneration, ~~unless running unopposed~~ upon request, shall automatically be given a leave of absence without pay, commencing thirty days before the date of the primary election and continuing until the person is eliminated as a candidate or wins the primary, and commencing thirty days before the date of the general election and continuing until the person is eliminated as a candidate or wins the general election, and during the leave period shall not perform any duties connected with the office or position so held. The officer or employee subject to civil service, or chief deputy sheriff or second deputy sheriff, may, however, use accumulated paid vacation time for part or all of ~~the~~ any leave of absence ~~required~~ under this section. The county shall continue to provide health benefit coverages, and may continue to provide other fringe benefits, to any officer or employee subject to civil service, or to any chief deputy sheriff or second deputy sheriff during any leave of absence ~~required~~ under this section.

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

Approved March 31, 2000

CHAPTER 1034

DISSOLUTION OF MARRIAGE HEARINGS — EXCEPTIONS

H.F. 2168

AN ACT relating to the exceptions to the requirement of holding a hearing in a dissolution of marriage action.

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

Section 1. Section 598.8, subsection 2, paragraph a, subparagraph (4), Code 1999, is amended by striking the subparagraph.

Sec. 2. Section 598.8, subsection 2, paragraph b, subparagraph (3), Code 1999, is amended by striking the subparagraph.

Approved March 31, 2000

CHAPTER 1035

COUNTY AND STATE MUTUAL INSURANCE GUARANTY ASSOCIATION

H.F. 2218

AN ACT creating a county and state mutual insurance guaranty association and providing penalties.

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

Section 1. NEW SECTION. 518C.1 TITLE.
This chapter shall be known and may be cited as the "Iowa County and State Mutual Insurance Guaranty Association Act".

Sec. 2. NEW SECTION. 518C.2 SCOPE.
This chapter applies to direct insurance authorized to be written by an insurer licensed to transact insurance business in this state under chapter 518 or 518A.

Sec. 3. NEW SECTION. 518C.3 DEFINITIONS.
As used in this chapter unless the context otherwise requires:
1. "Association" means the Iowa county and state mutual insurance guaranty association established pursuant to section 518C.4.
2. "Claimant" means an insured making a first-party claim or a person instituting a liability claim against an insolvent insurer. "Claimant" does not include a person who is an affiliate of an insolvent insurer.
3. "Commissioner" means the commissioner of insurance.
4. a. "Covered claim" means an unpaid claim, including one for unearned premiums, which arises out of and is within the coverage and subject to the applicable limits of an insurance policy subject to this chapter which is issued by an insurer, if the insurer becomes an insolvent insurer on or after July 1, 2000, and one of the following conditions exists:
(1) The claimant is a resident of this state at the time of the event giving rise to the covered claim. For a claimant other than an individual, the residence of the claimant is the state in which its principal place of business is located.
(2) The claim is a first-party claim by the claimant for damage to property permanently located in this state.
b. "Covered claim" does not include any of the following:
(1) An amount due a reinsurer, insurer, insurance pool, underwriting association, or other group assuming insurance risks, as subrogation, contribution, indemnity recoveries, or otherwise.
(2) An amount that constitutes the portion of a claim that is within an insured's deductible or self-insured retention.
(3) An amount due an attorney, adjuster, or witness as a fee for services rendered to the insolvent insurer.
(4) An amount that constitutes a fine, penalty, interest, or punitive or exemplary damages.
(5) An amount that is an obligation owed to or on behalf of an affiliate of, as defined in section 521A.1, an insolvent insurer.
Notwithstanding subparagraphs (1) through (5), a person is not prevented from presenting a noncovered claim to the insolvent insurer or its liquidator. However, the noncovered claim shall not be asserted against any other person, including the person to whom benefits were paid or the insured of the insolvent insurer, except to the extent that the claim is outside the coverage of the policy issued by the insolvent insurer.
5. "Insolvent insurer" means an insurer against which a final order of liquidation with a finding of insolvency has been entered on or after July 1, 2000, by a court of competent jurisdiction of this state.

6. "Insurer" means a person licensed to transact insurance business in this state under either chapter 518 or chapter 518A either at the time the policy was issued or when the insured event occurred.

7. "Net direct written premiums" means direct gross premiums written in this state on insurance policies subject to this chapter, less return premiums and dividends paid or credited to policyholders on such direct business. "Net direct written premiums" does not include premiums on a contract between insurers or reinsurers.

8. "Person" means an individual, corporation, partnership, association, or voluntary organization.

Sec. 4. NEW SECTION. 518C.4 ASSOCIATION ESTABLISHED.

An Iowa county and state mutual insurance guaranty association is established as a nonprofit unincorporated legal entity. An insurer shall be a member of the association as a condition of the insurer's authority to transact insurance business in this state. The association shall perform its functions under a plan of operation established and approved pursuant to section 518C.7 and shall exercise its powers through a board of directors established under section 518C.5. Except as otherwise provided in such plan of operation, an annual or special meeting of members of the association may be held on call as directed by the association's board of directors or by the commissioner of insurance. Written notice shall be given not less than ten days prior to the meeting by ordinary mail to each member at the member's principal office as shown by the records in the commissioner's office. The notice shall state the time and place, and in the case of a special meeting, the purpose of the meeting. Members may vote in person and ten members present in person shall constitute a quorum for the transaction of any business.

Sec. 5. NEW SECTION. 518C.5 BOARD OF DIRECTORS.

The board of directors of the association shall consist of the officers and directors of the mutual insurance association of Iowa or its successor association. An officer and director of the mutual insurance association of Iowa shall serve in the same capacity on the association board as the officer or director serves the mutual insurance association of Iowa or its successor association.

Sec. 6. NEW SECTION. 518C.6 DUTIES AND POWERS OF THE ASSOCIATION.

1. The association is subject to all of the following:

a. (1) The association is obligated to pay a covered claim as follows:

(a) A covered claim existing prior to the final order of liquidation and arising within thirty days after the final order of liquidation.

(b) A covered claim existing before the policy expiration date if the expiration date is less than thirty days after the final order of liquidation.

(c) A covered claim existing before the insured replaces the policy or causes its cancellation, if the insured replaces or cancels the policy within thirty days of the final order of liquidation.

(2) An obligation under subparagraph (1) is satisfied by paying to the claimant an amount as follows:

(a) An amount not exceeding ten thousand dollars per policy for a covered claim for the return of unearned premium.

(b) An amount not exceeding the lesser of the policy limits or three hundred thousand dollars per claim for all covered claims for all damages arising out of any one or a series of accidents, occurrences, or incidents, regardless of the number of persons making claims or the number of applicable policies.

b. The association is obligated to pay covered claims subject to a limitation as established by the rights, duties, and obligations under the policy issued by the insolvent insurer.

c. The association shall assess member insurers amounts necessary to pay the obligations of the association under paragraphs "a" and "b" subsequent to an insolvency, the expenses of handling covered claims subsequent to an insolvency, the cost of examinations

under section 518C.12, and other expenses as authorized by this chapter. The assessment of each member insurer shall be in the proportion that the net direct written premiums of the member insurer for the preceding calendar year bear to the net direct written premiums of all member insurers for the preceding calendar year. Each member insurer shall be notified of the assessment not less than thirty days before it is due. A member insurer shall not be assessed in any year an amount greater than two percent of that member insurer's net direct written premiums for the preceding calendar year. If the maximum assessment, together with the other assets of the association, does not provide in any one year an amount sufficient to make all necessary payments, the funds available shall be prorated and the unpaid portion shall be paid as soon as funds become available. The association may exempt or defer, in whole or in part, the assessment of any member insurer if the assessment would cause the member insurer's financial statement to reflect amounts of surplus less than the minimum amounts required for a certificate of authority to transact insurance business. A member insurer serving as a servicing facility pursuant to this section may set off against any assessment, authorized payments made on covered claims and expenses incurred in the payment of such claims by the member insurer. All overdue and unpaid assessments shall draw interest at the rate of seven percent per annum.

The association may pursue and retain for its own account salvage and subrogation recoverable on paid covered claim obligations. An obligation of the association to defend an insured shall cease upon the association's payment of an amount equal to the lesser of the association's covered claim obligation or the applicable policy limits.

d. The association shall investigate claims filed with the association and adjust, compromise, settle, defend, and pay covered claims to the extent of the association's obligation and deny all other claims.

e. The association shall notify such persons as the commissioner directs under section 518C.8, subsection 2, paragraph "a".

f. The association shall process claims through its employees or through one or more member insurers or other persons designated as servicing facilities. Designation of a servicing facility is subject to the approval of the commissioner, but such designation may be declined by a member insurer.

g. The association shall reimburse each servicing facility for obligations of the association paid by the facility and for expenses incurred by the facility while handling claims on behalf of the association, and pay the other expenses of the association authorized by this chapter.

2. The association may do any of the following:

a. Appear in, defend, and appeal an action on a claim brought against the association.

b. Employ or retain persons necessary to handle claims and perform other duties of the association.

c. Borrow funds necessary to effect the purposes of this chapter in accord with the plan of operation.

d. Sue or be sued.

e. Negotiate and become a party to contracts necessary to carry out the purposes of this chapter.

f. Perform such other acts necessary or proper to effectuate the purposes of this chapter.

3. The board of directors, in its discretion, may from time to time refund excess amounts to member insurers that are not needed for current or projected liabilities of a particular insolvency. The amount of each refund is equal to the net direct written premiums of the member insurer for the preceding calendar year divided by the net written premiums of all member insurers for the preceding calendar year, multiplied by the total amount to be refunded to all members. At the discretion of the board of directors, an assessment or refund of any member insurer in an amount not to exceed twenty-five dollars may be waived.

Sec. 7. NEW SECTION. 518C.7 PLAN OF OPERATION.

1. The association shall submit a plan of operation to the commissioner, together with any amendments necessary or suitable to ensure the fair, reasonable, and equitable admin-

istration of the association. The plan of operation and any amendment become effective upon written approval by the commissioner.

If the association fails to submit a suitable plan of operation within ninety days following the effective date of this chapter, or if at any time after submission of a suitable plan the association fails to submit suitable amendments to the plan, the commissioner, after notice and opportunity for hearing, shall adopt rules necessary or advisable to effectuate the provisions of this Act. Such rules shall continue in force until modified by the commissioner or superseded by a plan submitted by the association and approved by the commissioner.

2. A member insurer shall comply with the association's plan of operation.

3. The plan of operation shall provide for all of the following:

a. Procedures for the performance of the duties and execution of the powers of the association under section 518C.6.

b. Procedures for managing the assets of the association.

c. Procedures by which claims may be filed with the association and acceptable forms of proof of covered claims. Notice of claims to the receiver or liquidator of the insolvent insurer constitutes notice to the association or its agent, and a list of such claims shall be periodically submitted to the association or similar organization in another state by the receiver or liquidator.

d. The place and time for meetings of the board of directors, as necessary.

e. Procedures for keeping records of all financial transactions of the association, its agents, and the board of directors.

f. That any member insurer aggrieved by a final action or decision of the association may appeal the action or decision to the commissioner within thirty days after the action or decision.

g. Additional provisions necessary or proper for the performance of the duties and execution of the powers of the association.

4. The plan of operation may delegate any or all duties and powers of the association, except those under section 518C.6, subsection 1, paragraph "c", and subsection 2, paragraph "c", to a person with the approval of both the board of directors and the commissioner. Such delegation shall only be made to a person extending protection which is not substantially less favorable and effective than that provided by this chapter. Such person shall be reimbursed as a servicing facility and shall be paid for the performance of any other functions of the association.

Sec. 8. NEW SECTION. 518C.8 DUTIES AND POWERS OF THE COMMISSIONER.

1. The commissioner shall do both of the following:

a. Notify the association of the existence of an insolvent insurer not later than three days after the commissioner receives notice of the determination of the insolvency.

b. Upon request of the board of directors, provide the association with a statement of the net direct written premiums of each member insurer.

2. The commissioner may do any of the following:

a. Require that the association notify the insureds of the insolvent insurer and any other interested parties of the determination of insolvency and of their rights under this chapter. The notification shall be by regular mail at their last known address, but if sufficient information for notification by mail is not available, notice by publication in a newspaper of general circulation is sufficient.

b. Suspend or revoke, after notice and opportunity for hearing, the certificate of authority to transact insurance business in this state of any member insurer which fails to pay an assessment when due or fails to comply with the plan of operation. As an alternative, the commissioner may levy a penalty on any member insurer which fails to pay an assessment when due. Such penalty shall not exceed five percent of the unpaid assessment per month, except that a penalty shall not be less than one hundred dollars per month.

c. Revoke the designation of any servicing facility if the commissioner finds claims are being processed unsatisfactorily.

3. Judicial review of an action of the commissioner may be sought pursuant to chapter 17A.

Sec. 9. NEW SECTION. 518C.9 EFFECT OF PAID CLAIMS.

1. A person recovering under a claim made pursuant to this chapter is deemed to have assigned the person's rights under the policy to the association to the extent of the person's recovery from the association. A claimant seeking the protection of this chapter shall cooperate with the association to the same extent as such claimant would have been required to cooperate with the insolvent insurer. The association has no cause of action against a claimant for any sums the association has paid out.

2. The association or a similar entity in another state shall be recognized as claimants in the liquidation of an insolvent insurer for any amounts paid by the association or similar entity on covered claim obligations as determined under this chapter or under similar law in another state. The association or similar entity shall receive dividends and any other distributions at the priority set forth under the applicable liquidation law. The receiver, liquidator, or statutory successor of an insolvent insurer is bound by determinations of covered claim eligibility under this chapter and by settlements of covered claims made by the association or a similar organization in another state. The court having jurisdiction shall grant such claims priority equal to that which the claimant would have been entitled in the absence of this chapter against the assets of the insolvent insurer. The expenses of the association or similar organization in handling claims shall be accorded the same priority as the liquidator's expenses.

3. The association shall periodically file with the receiver, liquidator, or statutory successor of the insolvent insurer statements of the covered claims paid by the association and estimates of anticipated claims on the association, which statements shall preserve the rights of the association against the assets of the insolvent insurer.

Sec. 10. NEW SECTION. 518C.10 NONDUPLICATION OF RECOVERY.

1. A person having a claim under another policy, which claim arises out of the same facts which give rise to a covered claim, is first required to exhaust the person's rights under the other policy. An amount recovered or recoverable by a person under another insurance policy shall be credited against the liability of the association under section 518C.6, subsection 1, paragraph "a". For purposes of this section, another insurance policy means a policy issued by an insurance company, whether a member insurer or not, which policy insures against any of the types of risks insured by an insurance company authorized to transact insurance business under chapter 518 or 518A, or comparable statutes of another state, except those types of risks set forth in chapters 508 and 514.

2. A person having a claim which may be recovered under more than one insurance guaranty association or an equivalent entity shall seek recovery first from the association of the place of residence of the insured. However, if the claim is a first-party claim for damage to property with a permanent location, recovery shall be first sought from the association or equivalent entity of the state in which the property is permanently located. An amount recovered from any other guaranty association or equivalent entity shall be subtracted from the maximum liability of the Iowa county and state mutual insurance guaranty association under section 518C.6, subsection 1, paragraph "a".

Sec. 11. NEW SECTION. 518C.11 PREVENTION OF INSOLVENCIES.

1. a. The board of directors, upon majority vote and for purposes of detecting and preventing insurer insolvencies, may do either of the following:

(1) Make recommendations to the commissioner for the detection and prevention of insurer insolvencies.

(2) Respond to a request by the commissioner to discuss and make recommendations regarding the status of a member insurer whose financial condition may be hazardous to policyholders or the public.

b. The board of directors, at the conclusion of a domestic insurer insolvency, may prepare a report based on the information available to the association on the history and causes of the insolvency. The report may be submitted to the commissioner.

2. Recommendations and reports made pursuant to subsection 1, paragraph "a", subparagraph (2), are not public records under chapter 22.

Sec. 12. NEW SECTION. 518C.12 EXAMINATION OF THE ASSOCIATION.
The association is subject to examination and regulation by the commissioner. The board of directors, not later than March 30 of each year, shall submit a financial report for the preceding calendar year in a form approved by the commissioner.

Sec. 13. NEW SECTION. 518C.13 TAX EXEMPTION.
The association is exempt from the payment of fees and taxes levied by this state or a subdivision of the state except for taxes levied on property.

Sec. 14. NEW SECTION. 518C.14 RECOGNITION OF ASSESSMENTS IN RATES.
The rates and premiums charged for insurance policies to which this chapter applies shall include amounts sufficient to recoup a sum equal to the amounts paid to the association by the member insurer less any amounts returned to the member insurer by the association. Such rates and premiums shall not be deemed excessive as a result of including such recoupment allowances.

Sec. 15. NEW SECTION. 518C.15 IMMUNITY.
Liability and a cause of action shall not arise against any member insurer, the association, its agents or employees, the board of directors, the commissioner, or the commissioner's representatives, for any reasonable action taken in the performance of duties and execution of powers as provided for under this chapter.

Sec. 16. NEW SECTION. 518C.16 STAY OF PROCEEDINGS.
A proceeding to which the insolvent insurer is a party or in which the insolvent insurer is obligated to defend a party shall be stayed from the date of the insolvency to and including the date set as the deadline for the filing of claims against the insolvent insurer or its receiver. However, upon application, the court having jurisdiction of the receivership may lengthen or shorten the period, either as to all claims or as to any particular claim. The association may waive such stay as to specific cases involving covered claims.
The association, on its own behalf or on behalf of the insured, with respect to a covered claim based on the default of an insurer who is or who becomes insolvent, or based on the failure of an insurer to defend an insured, is entitled to set the default aside and defend such claim on its merits.

Sec. 17. NEW SECTION. 518C.17 ACTIONS AGAINST THE ASSOCIATION.
An action against the association shall be brought against it in the association's own name and only in the Polk county district court. Service of original notice in an action against the association may be made on any officer of the association or upon the commissioner of insurance on its behalf. The commissioner shall promptly transmit any notice served upon the commissioner to the association.

Sec. 18. NEW SECTION. 518C.18 TIMELY FILING OF CLAIMS.
Notwithstanding any other provision of this chapter, a covered claim shall not include a claim filed with the association after the final date set by the court for the filing of claims against the insolvent insurer or its receiver.

Sec. 19. NEW SECTION. 518C.19 PROHIBITED ADVERTISING.
A person, in connection with the sale of an insurance policy, shall not advertise or publish that claims under the insurance policy are subject to this chapter or that such claims will be paid by the association.

Approved March 31, 2000

CHAPTER 1036

GUARDIANSHIPS AND CONSERVATORSHIPS — NOTICE — COUNSEL

H.F. 2240

AN ACT relating to notice and the appointment of counsel in guardianship and conservatorship proceedings.

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

Section 1. Section 633.554, Code 1999, is amended to read as follows:

633.554 NOTICE TO PROPOSED WARD.

1. a. If the proposed ward is an adult, notice of the filing of the petition shall be served upon the proposed ward in the manner of an original notice and the content of the notice is governed by the rules of civil procedure governing original notice.

b. Except where the proposed ward is the petitioner, notice shall also be served upon the ward's spouse. If the proposed ward has no spouse, notice shall be served upon the proposed ward's adult children, if any.

2. a. If the proposed ward is a minor or if the proposed ward is an adult under a standby petition and the court determines, pursuant to section 633.561, subsection 1, paragraph "b", that the proposed ward is entitled to representation, notice in the manner of original notice, or another form of notice ordered by the court, given to the attorney appointed to represent the ward is notice to the proposed ward.

b. Notice shall also be served upon:

(1) The parents of the proposed ward, if the proposed ward is a minor.

(2) The spouse of the proposed ward, if the proposed ward is an adult. If the proposed ward has no spouse, notice shall be served upon the proposed ward's adult children, if any.

3. Service of notice under this section upon persons other than the proposed ward shall be made upon such persons whose identities are reasonably ascertainable pursuant to section 633.40, subsection 5. Proof of service shall be made by affidavit, to which copies of all documents served shall be attached.

Sec. 2. Section 633.561, subsection 1, Code 1999, is amended to read as follows:

1. In a proceeding for the appointment of a guardian~~, if~~:

a. If the proposed ward is an adult and is not the petitioner, the proposed ward is entitled to representation. ~~In a proceeding for the appointment of a guardian, if~~ Upon the filing of the petition, the court shall appoint an attorney to represent the proposed ward, set a hearing on the petition, and provide for notice of the appointment of counsel and the date for hearing.

b. If the proposed ward is either a minor or ~~if the proposed ward is~~ an adult under a standby petition, the court shall determine whether, under the circumstances of the case, the proposed ward is entitled to representation. The determination regarding representation ~~shall~~ may be made ~~only after~~ with or without notice to the proposed ward, ~~is made~~ as the court deems necessary. If the court determines that the proposed ward is entitled to representation, the court shall appoint an attorney to represent the proposed ward. After making the determination regarding representation, the court shall set a hearing on the petition, and provide for notice on the determination regarding representation and the date for hearing.

c. The court may take action under paragraph "a" or "b" prior to the service of the original notice upon the proposed ward.

d. The court may reconsider the determination regarding representation upon application by any interested person.

e. The court may discharge the attorney appointed by the court if it appears upon the application of the proposed ward or any other interested person that the ward has privately retained an attorney who has filed an appearance on behalf of the proposed ward.

Sec. 3. Section 633.562, Code 1999, is amended to read as follows:

633.562 NOTIFICATION OF GUARDIANSHIP POWERS.

In a proceeding for the appointment of a guardian, the proposed ward shall be given written notice which advises the proposed ward that if a guardian is appointed, the guardian may, without court approval, provide for the care of the ward, manage the ward's personal property and effects, assist the ward in developing self-reliance and receiving professional care, counseling, treatment or services as needed, and ensure that the ward receives necessary emergency medical services. The notice shall also advise the proposed ward that, upon the court's approval, the guardian may change the ward's permanent residence to a more restrictive residence, and arrange for major elective surgery or any other nonemergency major medical procedure. The notice shall clearly advise the proposed ward in boldfaced type of a minimum size of ten points, of the right to counsel and the potential deprivation of the proposed ward's civil rights. The notice shall also state that the proposed ward may use the ward's own attorney instead of an attorney appointed by the court. In an involuntary guardianship proceeding, the notice shall be served upon the proposed ward with the notice of the filing of the petition as provided in section 633.554.

Sec. 4. Section 633.568, Code 1999, is amended to read as follows:

633.568 NOTICE TO PROPOSED WARD.

1. a. If the proposed ward is an adult, notice of the filing of the petition shall be served upon the proposed ward in the manner of an original notice and the content of the notice is governed by the rules of civil procedure governing original notice.

b. Except where the ward is the petitioner, notice shall also be served upon the ward's spouse. If the ward has no spouse, notice shall be served upon the ward's adult children, if any.

2. a. If the proposed ward is a minor and the court determines, pursuant to section 633.575, subsection 1, paragraph "b", that the proposed ward is entitled to representation, notice in the manner of original notice, or another form of notice ordered by the court, given to the attorney appointed to represent the ward is notice to the proposed ward.

b. Notice shall also be served upon the parents of the proposed ward.

3. Service of notice under this section upon persons other than the proposed ward shall be made upon such persons whose identities are reasonably ascertainable pursuant to section 633.40, subsection 5. Proof of service shall be made by affidavit, to which copies of all documents served shall be attached.

Sec. 5. Section 633.575, subsection 1, Code 1999, is amended to read as follows:

1. In a proceeding for the appointment of a conservator~~, if:~~

a. If the proposed ward is an adult and is not the petitioner, the proposed ward is entitled to representation. Upon the filing of the petition, the court shall appoint an attorney to represent the proposed ward, set a hearing on the petition, and provide for notice of the appointment of counsel and the date for hearing.

b. ~~In a proceeding for the appointment of a conservator, if~~ If the proposed ward is either a minor or ~~where the proposed ward is~~ an adult under a standby petition, the court shall determine whether, under the circumstances of the case, the proposed ward is entitled to representation. The determination regarding representation ~~shall~~ may be made ~~only after~~ with or without notice to the proposed ward, ~~is made~~ as the court deems necessary. If the court determines that the proposed ward is entitled to representation, the court shall appoint an attorney to represent the proposed ward. After making the determination regarding representation, the court shall set a hearing on the petition, and provide for notice on the determination regarding representation and the date for hearing.

c. The court may take action under paragraph "a" or "b" prior to the service of the original notice upon the proposed ward.

d. The court may reconsider the determination regarding representation upon application by any interested person.

e. The court may discharge the attorney appointed by the court if it appears upon the application of the proposed ward or any other interested person that the ward has privately retained an attorney who has filed an appearance on behalf of the proposed ward.

Sec. 6. Section 633.576, Code 1999, is amended to read as follows:

633.576 NOTIFICATION OF CONSERVATORSHIP POWERS.

In a proceeding for the appointment of a conservator, the proposed ward shall be given written notice which advises the proposed ward that if a conservator is appointed, the conservator may, without court approval, manage the proposed ward's principal, income, and investments, sue and defend any claim by or against the ward, sell and transfer personal property, and vote at corporate meetings. The notice shall also advise the proposed ward that, upon the court's approval, the conservator may invest the ward's funds, execute leases, make payments to or for the benefit of the ward, support the ward's legal dependents, compromise or settle any claim, and do any other thing that the court determines is in the ward's best interests. The notice shall clearly advise the proposed ward, in boldfaced type of a minimum size of ten points, of the right to counsel and the potential deprivation of the proposed ward's civil rights. The notice shall also state that the proposed ward may use the ward's own attorney instead of an attorney appointed by the court. In an involuntary conservatorship proceeding, the notice shall be served upon the proposed ward with the notice of the filing of the petition as provided in section 633.568.

Approved March 31, 2000

CHAPTER 1037

ESCAPE AND ABSENCE FROM CUSTODY — JURISDICTION

H.F. 2253

AN ACT relating to state criminal jurisdiction and to the crimes of escape and absence from custody.

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

Section 1. Section 719.4, subsections 1 and 2, Code Supplement 1999, are amended to read as follows:

1. A person convicted of a felony, or charged with or arrested for the commission of a felony, who intentionally escapes, or attempts to escape, from a detention facility, community-based correctional facility, or institution to which the person has been committed by reason of the conviction, charge, or arrest, or from the custody of any public officer, ~~or~~ public employee, or any other person to whom the person has been entrusted, commits a class "D" felony.

2. A person convicted of, charged with, or arrested for a misdemeanor, who intentionally escapes, or attempts to escape, from a detention facility, community-based correctional facility, or institution to which the person has been committed by reason of the conviction, charge, or arrest, or from the custody of any public officer, ~~or~~ public employee, or any other person to whom the person has been entrusted, commits a serious misdemeanor.

Sec. 2. Section 719.4, Code Supplement 1999, is amended by adding the following new subsection:

NEW SUBSECTION. 5. Except for subsection 4, an offense committed under this section includes any offense committed wholly outside the state.

Sec. 3. Section 803.1, subsection 1, Code 1999, is amended by adding the following new paragraph after paragraph c:

NEW PARAGRAPH. cc. The offense is based upon a statute that specifically prohibits conduct wholly outside of the state, and the conduct bears a reasonable relation to a legitimate state interest, and the person knows or should know that the conduct is likely to affect that interest.

Approved March 31, 2000

CHAPTER 1038

LIVESTOCK AND HUNTING PRESERVES

H.F. 2277

AN ACT relating to hunting preserves by eliminating regulations applicable to certain animals classified as livestock.

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

Section 1. Section 159.5, Code Supplement 1999, is amended by adding the following new subsection:

NEW SUBSECTION. 16. Establish and administer programs for the inspection and control of disease among livestock as defined in section 717.1.

Sec. 2. Section 484B.1, Code 1999, is amended by adding the following new subsection:

NEW SUBSECTION. 5A. "Livestock" means the same as defined in section 717.1.

Sec. 3. Section 484B.1, subsection 8, Code 1999, is amended to read as follows:

8. "Ungulate" means hoofed nondomesticated mammal other than livestock.

Sec. 4. Section 484B.12, Code 1999, is amended to read as follows:

484B.12 HEALTH REQUIREMENTS — UNGULATES.

All ungulates ~~other than livestock as described by the Iowa department of agriculture and land stewardship~~ which are purchased, propagated, confined, released, or sold by a licensed hunting preserve shall be free of diseases considered significant for wildlife, poultry, or livestock. ~~The Iowa department of agriculture and land stewardship shall administer the inspection and disease control regulations of ungulates that are livestock.~~

Approved March 31, 2000

CHAPTER 1039

POLLING PLACES — DIRECTIONAL SIGNS

H.F. 2330

AN ACT relating to directional signs visible from the street at polling places.

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

Section 1. Section 49.21, Code 1999, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. On the day of an election, the commissioner shall post a sign stating "vote here" at the entrance to each driveway leading to the building where a polling place is located. The sign must be visible from the street or highway fronting the driveway, but shall not encroach upon the right-of-way of such street or highway.

Approved March 31, 2000

CHAPTER 1040

IMPLEMENTS OF HUSBANDRY

H.F. 2368

AN ACT relating to weight restrictions on certain implements of husbandry and providing for a study.

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

Section 1. Section 321.463, subsection 4, paragraph b, Code Supplement 1999, is amended by striking the paragraph and inserting in lieu thereof the following:

b. (1) Notwithstanding any provision of this section to the contrary, the weight on any one axle of a fence-line feeder, grain cart, or tank wagon operated on the highways of this state shall not exceed twenty-four thousand pounds from February 1 through May 31 or twenty-eight thousand pounds from June 1 through January 31, provided, however, that the maximum gross vehicle weight of the fence-line feeder, grain cart, or tank wagon shall not exceed ninety-six thousand pounds.

A fence-line feeder, grain cart, or tank wagon shall comply with the other provisions of this section and chapter when operated over a bridge in this state. A local authority may issue a special permit, based on a statewide standard developed by the department, allowing the operation over a bridge within its jurisdiction of a fence-line feeder, grain cart, or tank wagon with a weight in excess of the weights allowed under this chapter.

(2) For purposes of this paragraph "b", "highway" does not include a bridge.

For purposes of this paragraph "b", "fence-line feeder, grain cart, or tank wagon" means all of the following:

(a) A fence-line feeder, grain cart, or tank wagon manufactured on or after July 1, 2001.

(b) After July 1, 2005, any fence-line feeder, grain cart, or tank wagon.

The year of manufacture of a fence-line feeder, grain cart, or tank wagon manufactured on or after July 1, 2001, shall be permanently made a part of the identification plate on the vehicle. Fraudulently altering or defacing or attempting to fraudulently alter or deface the year of manufacture or other product identification number on a fence-line feeder, grain cart, or tank wagon is a violation of section 321.92.

Sec. 2. IMPLEMENTS OF HUSBANDRY STUDY. The state department of transportation shall, in consultation with manufacturers and distributors of implements of husbandry, agricultural associations, and the Iowa state association of counties, complete the study described in 1999 Iowa Acts, chapter 108, section 12, as it pertains to tracked vehicles. The department shall report its findings and recommendations to the general assembly by December 1, 2000.

Approved March 31, 2000

CHAPTER 1041

LIMITED LIABILITY COMPANY MANAGEMENT — LIMITATIONS — EFFECT

H.F. 2425

AN ACT relating to knowledge of limitations on authority of managers of limited liability companies by persons dealing with such companies.

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

Section 1. Section 490A.702, subsection 8, Code 1999, is amended by striking the subsection.

Approved March 31, 2000

CHAPTER 1042

ETHICS AND CAMPAIGN DISCLOSURE — REGULATION AND ENFORCEMENT

H.F. 2431

AN ACT relating to ethics and campaign disclosure board procedures and to conflicts of interest of public officers and employees.

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

Section 1. Section 68B.26, Code 1999, is amended to read as follows:

68B.26 ACTIONS COMMENCED.

~~Actions against public officials or public employees to enforce the provisions of this chapter may be commenced by the filing of a complaint with the county attorney by any legal resident of the state of Iowa who is eighteen years of age or more at the time of commencing the action or by the attorney general.~~ Complaints regarding conduct of local officials or local employees which violates this chapter shall be filed with the county attorney in the county where the accused resides. However, if the county attorney is the person against whom the complaint is filed, or if the county attorney otherwise has a personal or legal conflict of interest, the complaint shall be referred to another county attorney.

Sec. 2. Section 68B.32D, subsection 3, Code 1999, is amended to read as follows:

3. If a person fails to comply with an ~~order~~ action of the board under subsection 1, ~~paragraph "a", "b", "c", or "h",~~ the board may petition the Polk county district court ~~having jurisdiction~~ for an order for enforcement of the ~~order~~ action of the board. The enforcement proceeding shall be conducted as provided in section 68B.33.

Sec. 3. Section 68B.38, subsection 1, Code 1999, is amended to read as follows:

1. ~~Beginning in 1994, no later than~~ On or before January 31 and July 31 of each year, ~~unless no payments are made,~~ a lobbyist's client shall file with the general assembly or board a report that contains information on all salaries, fees, and retainers paid by the lobbyist's client to the lobbyist for lobbying purposes during the preceding six calendar months. Reports by lobbyists' clients shall be filed with the same entity with which the lobbyist filed the lobbyist's registration.

Approved March 31, 2000

CHAPTER 1043

EMERGENCY MEDICAL SERVICES FUNDING AND LOST PROPERTY DISPOSITION

H.F. 2531

AN ACT relating to services provided by county officers including funding for emergency medical services and the disposition of lost property.

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

Section 1. Section 135.25, Code 1999, is amended to read as follows:

135.25 EMERGENCY MEDICAL SERVICES FUND.

An emergency medical services fund is created in the state treasury under the control of the department. The fund includes, but is not limited to, amounts appropriated by the general assembly, and other moneys available from federal or private sources which are to be used for purposes of this section. Funds remaining in the fund at the end of each fiscal year shall not revert to the general fund of the state but shall remain in the emergency medical services fund, notwithstanding section 8.33. The fund is established to assist counties by matching, on a dollar-for-dollar basis, moneys spent by a county for the acquisition of equipment for the provision of emergency medical services and by providing grants to counties for education and training in the delivery of emergency medical services, as provided in this section and section 422D.6. A county seeking matching funds under this section shall apply to the emergency medical services division of the department. The department shall adopt rules concerning the application and awarding process for the matching funds and the criteria for the allocation of moneys in the fund if the moneys are insufficient to meet the emergency medical services needs of the counties. Moneys allocated by the department to a county for emergency medical service purposes may be used for equipment or training and education as determined by the board of supervisors pursuant to section 422D.6.

Sec. 2. Section 556F.7, Code 1999, is amended to read as follows:

556F.7 WHEN OWNER UNKNOWN.

If the owner is unknown, the finder shall, within five days after finding the property, take the money, bank notes, and a description of any other property ~~before~~ to the county ~~auditor~~ sheriff of the county ~~where~~ or the chief of police of the city in which the property was found,

and provide an affidavit describing the property, the time when and place where the property was found, and attesting that no alteration has been made in the appearance of the property since the finding. The sheriff or chief of police shall send a copy of the affidavit to the county auditor who shall enter a description of the property and the value ~~thereof~~ of the property, as nearly as the auditor can determine it, in the auditor's lost property book, together with the copy of the affidavit of the finder.

Sec. 3. Section 556F.8, Code 1999, is amended to read as follows:

556F.8 ADVERTISEMENT.

The finder of ~~such~~ the lost goods, money, bank notes, or other things, shall ~~forthwith~~ give written notice of the finding of ~~such~~ the property. ~~Such~~ The notice shall contain an accurate description of the property and a statement as to the time when and place where the same was found, and the post-office address of the finder. ~~Said~~ The notice shall:

1. Be posted at the door of the courthouse in the county in which the property was found or at the city hall or police station if found within a city and in ~~three~~ one other of the most public places in the ~~said~~ county; and

2. ~~In case~~ If the property found ~~shall exceed ten~~ exceeds forty dollars in value, the notice shall be published once each week for three consecutive weeks in some newspaper published in and having general circulation in ~~said~~ the county.

Approved March 31, 2000

CHAPTER 1044

SEX OFFENDER REGISTRATION

S.F. 2031

AN ACT relating to violations of the sex offender registry requirements and providing an effective date.

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

Section 1. Section 692A.3, Code Supplement 1999, is amended to read as follows:

692A.3 REGISTRATION PROCESS.

1. A person required to register under this chapter shall register with the sheriff of the county of the person's residence within ~~ten~~ five days of establishment of residence in this state or within ~~ten~~ five days of any conviction for which the person is not incarcerated, a release from custody, or placement on probation, parole, or work release. A sheriff shall accept the registration of a nonresident of the county if the person required to register is a full-time or part-time student or is employed on a full-time or part-time basis in the county.

2. A person required to register under this chapter shall, within ~~ten~~ five days of changing residence within a county in this state or within ~~ten~~ five days of a change in the person's name as a result of marriage, dissolution of marriage, or a legal name change, notify the sheriff of the county in which the person is registered of the change of address, name, and any changes in the person's telephone number in writing on a form provided by the sheriff. The sheriff shall send a copy of the change of information to the department within three working days of receipt of notice of the change. The sex offender registry shall maintain and make available information from the registry cross-referenced by name at the time of conviction and by name subsequent to any change.

3. A person required to register under this chapter shall register with the sheriff of a county in which residence has been newly established and notify the sheriff of the county in which the person was registered, within ~~ten~~ five days of changing residence to a location outside the county in which the person was registered. Registration shall be in writing on a form provided by the sheriff and shall include the person's change of address and any changes to the person's telephone number or name. The sheriff shall send a copy of the change of information to the department within three working days of receipt of notice of the change.

4. A person required to register under this chapter shall notify the sheriff of the county in which the person is registered, within ~~ten~~ five days of changing residence to a location outside this state, of the new residence address and any changes in telephone number or name. The sheriff shall send a copy of the change to the department within three working days of receipt of notice of the change. The person must register with the registering agency of the other state within ~~ten~~ five days of changing residency, if persons are required to register under the laws of the other state. The department shall notify the registering agency in the other state of the registrant's new address, telephone number, or name.

5. The collection of information by a court or releasing agency under section 692A.5 shall serve as the person's initial registration for purposes of this section. The court or releasing agency shall forward a copy of the registration to the department within three working days of completion of registration.

Sec. 2. Section 692A.5, subsection 1, paragraphs c and d, Code Supplement 1999, are amended to read as follows:

c. Inform the person that, within ~~ten~~ five days of changing residence, registration with the sheriff in the county in which residence is established is required, if the residence is within the state.

d. Inform the person that if the person moves the person's residence to another state, the person must give the person's new address to the sheriff's department in the county of the person's old residence within ~~ten~~ five days of changing addresses, and that, if the other state has a registration requirement, the person is also required to register in the new state of residence, not later than ~~ten~~ five days after establishing residence in the other state and to verify the address at least annually.

Sec. 3. Section 692A.7, subsection 1, Code 1999, is amended to read as follows:

1. A ~~willful failure to register as required under this chapter is~~ person required to register under this chapter who knowingly violates any requirements specified under sections 692A.2 through 692A.4 commits an aggravated misdemeanor for a first offense and a class "D" felony for a second or subsequent offense. However, a person ~~who willfully fails to register as required under this chapter~~ required to register under this chapter who knowingly violates any of the requirements specified under sections 692A.2 through 692A.4 and who commits a criminal offense against a minor, sexual exploitation, an other relevant offense, or a sexually violent offense is guilty of a class "C" felony. Any fine imposed for a second or subsequent ~~offense~~ violation shall not be suspended. The court shall not defer judgment or sentence for any violation of ~~the registration~~ any requirements ~~of this chapter~~ specified under sections 692A.2 through 692A.4. ~~The willful failure~~ A knowing violation of a person who is on probation, parole, ~~or~~ work release, or any other form of release to ~~register as required under this chapter~~ comply[1] with any requirements specified under sections 692A.2 through 692A.4 shall result in the automatic revocation of the person's probation, parole, or work release.

Sec. 4. EFFECTIVE DATE. The section of this Act amending section 692A.7, being deemed of immediate importance, takes effect upon enactment.

Approved April 5, 2000

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[1] According to enrolled Act

CHAPTER 1045

AUTHORIZED EMERGENCY VEHICLES — BLUE LIGHTS

S.F. 2156

AN ACT relating to the use of blue lights on authorized emergency vehicles.

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

Section 1. Section 321.324, unnumbered paragraph 1, Code 1999, is amended to read as follows:
Upon the immediate approach of an authorized emergency vehicle with any lamp or device displaying a red light or red and blue lights, or an authorized emergency vehicle of a fire department displaying a blue light, or when the driver is giving audible signal by siren, exhaust whistle, or bell, the driver of every other vehicle shall yield the right of way and shall immediately drive to a position parallel to, and as close as possible to, the right hand edge or curb of the highway clear of any intersection and shall stop and remain in such position until the authorized emergency vehicle has passed, except when otherwise directed by a police officer. For the purposes of this section, "red light" or "blue light" means a light or lighting device that, when illuminated, will exhibit a solid flashing or strobing red or blue light.

Sec. 2. Section 321.423, subsection 3, Code 1999, is amended by adding the following new paragraph:
NEW PARAGRAPH. c. An authorized emergency vehicle, other than a vehicle described in paragraph "a" or "b", if the blue light is positioned on the passenger side of the vehicle and is used in conjunction with a red light positioned on the driver side of the vehicle.

Sec. 3. Section 321.423, subsection 3, Code 1999, is amended by adding the following new unnumbered paragraph:
NEW UNNUMBERED PARAGRAPH. A person shall not use only a blue light on a vehicle unless the vehicle meets the requirements of paragraph "a" or "b".

Approved April 5, 2000

CHAPTER 1046

DOMESTIC INSURERS — PROTECTED CELLS

S.F. 2200

AN ACT providing for the establishment of protected cells by domestic insurers.

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

Section 1. NEW SECTION. 521G.1 SHORT TITLE.
This chapter shall be known and may be cited as the "Protected Cell Company Act".

Sec. 2. NEW SECTION. 521G.2 PURPOSE.
The purpose of this chapter is to authorize the establishment of protected cells by a domestic insurer authorized to transact the business of insurance under chapter 508 or 515 as a means of accessing alternative sources of capital and achieving the benefits of insurance securitization. Investors in fully funded insurance securitization transactions provide funds that are available to pay the insurer's insurance obligations or to repay the investors, or both. Protected cells are intended to achieve more efficiencies with respect to such insurance securitization.

Sec. 3. NEW SECTION. 521G.3 DEFINITIONS.

For purposes of this chapter, unless the context otherwise requires:

1. "Domestic insurer" means an insurer domiciled in this state and organized under chapter 508 or 515.

2. "Fair value" of an asset or liability means the amount at which that asset or liability could be bought or incurred, or sold or settled, in a current transaction between willing parties, other than in a forced or liquidation sale, and as determined under section 521G.4.

3. "Fully funded" means, with respect to any exposure attributed to a protected cell, that the fair value of the protected cell assets, on the date on which the insurance securitization is effected, equals or exceeds the maximum possible exposure attributable to the protected cell with respect to such exposures.

4. "General account" means the assets and liabilities of a protected cell company other than protected cell assets and protected cell liabilities.

5. "Indemnity trigger" means a transaction term by which relief of the issuer's obligation to repay investors is triggered by its incurring a specified level of losses under its insurance or reinsurance contracts.

6. "Nonindemnity trigger" means a transaction term by which relief of the issuer's obligation to repay investors is triggered solely by some event or condition other than the individual protected cell company incurring a specified level of losses under its insurance or reinsurance contracts.

7. "Protected cell" means an identified pool of assets and liabilities of a protected cell company segregated and insulated as provided under this chapter from the remainder of the protected cell company's assets and liabilities.

8. "Protected cell account" means a specifically identified bank or custodial account established by a protected cell company for the purpose of segregating the protected cell assets of one protected cell from the protected cell assets of other protected cells and from the assets of the protected cell company's general account.

9. "Protected cell assets" means all assets, contract rights, and general intangibles, identified with and attributable to a specific protected cell of a protected cell company.

10. "Protected cell company" means a domestic insurer that has one or more protected cells.

11. "Protected cell company insurance securitization" means the issuance of a debt instrument, the proceeds from which support the exposures attributed to a protected cell, by a protected cell company where repayment of principal or interest, or both, to investors pursuant to the transaction terms is contingent upon the occurrence or nonoccurrence of an event with respect to which the protected cell company is exposed to loss under insurance or reinsurance contracts which the protected cell company has issued.

12. "Protected cell liabilities" means all liabilities and other obligations identified with and attributable to a specific protected cell of a protected cell company.

Sec. 4. NEW SECTION. 521G.4 DETERMINATION OF FAIR VALUE.

A quoted market price in an active market is deemed to be the best evidence of fair value of an asset and shall be used as the basis for the measurement of fair value, if available. If a quoted market price is available, the fair value is the product of the number of trading units times the quoted market price. If a quoted market price is not available, the estimate of fair value shall be based on the best information available. The estimate of fair value shall consider the price for similar assets and liabilities and the results of a valuation technique to the extent available in the circumstances. For purposes of this section, "valuation technique" includes, but is not limited to, the present value of estimated expected future cash flows using a discount rate commensurate with the risks involved, option-pricing models, matrix pricing, option-adjusted spread models, and fundamental analysis. A valuation technique for measuring financial assets and liabilities and servicing assets and liabilities shall be consistent with the objective of measuring fair value. A valuation technique shall incorporate assumptions that a market participant would use in estimating value, future revenue, and future expenses, including assumptions about interest rates, default, prepayment,

and volatility. In measuring financial liabilities and servicing liabilities at fair value by discounting estimated future cash flows, discount rates shall be used at which those liabilities could be settled in an open and competitive transaction. An estimate of expected future cash flow, if used to estimate fair value, shall be the best estimate based on reasonable and supportable assumptions and projections. All available evidence shall be considered in developing an estimate of expected future cash flow. The weight given to the evidence shall be commensurate with the extent to which the evidence can be verified objectively. If a range is estimated for either the amount or timing of possible cash flows, the likelihood of possible outcomes shall be considered in determining the best estimate of such future cash flows.

Sec. 5. NEW SECTION. 521G.5 ESTABLISHMENT OF PROTECTED CELLS.

1. A protected cell company may establish one or more protected cells with the prior written approval of the commissioner of a plan of operation or amendments to such plan submitted by the protected cell company with respect to each protected cell related to an insurance securitization. The plan shall include, but not be limited to, the specific business objectives and investment guidelines of the protected cell company. Upon the written approval of the commissioner of the plan of operation, the protected cell company, consistent with the approved plan of operation, may attribute to the protected cell insurance obligations with respect to its insurance business and obligations relating to the insurance securitization and assets to fund the obligations. A protected cell shall have its own distinct name or designation, which shall include the words "protected cell". The protected cell company shall transfer all assets attributable to a protected cell to one or more separately established and identified protected cell accounts bearing the name or designation of that protected cell. Protected cell assets shall be held in the protected cell accounts for the purpose of satisfying the obligations of that protected cell.

2. Attribution of assets and liabilities between a protected cell and the general account shall be pursuant to the plan of operation. Other attribution of assets or liabilities shall not be made by a protected cell company between the protected cell company's general account and its protected cells. The attribution of assets and liabilities between the general account and a protected cell, or from investors in the form of principal on a debt instrument issued by a protected cell company in connection with a protected cell company insurance securitization transaction, shall be in cash or in readily marketable securities with established market values.

3. The creation of a protected cell does not create, with respect to that protected cell, a legal person separate from the protected cell company. An amount attributed to a protected cell under this chapter, including assets transferred to a protected cell account, is owned by the protected cell company and the protected cell company shall not be, or hold itself out to be, a trustee with respect to those protected cell assets of that protected cell account. Notwithstanding this subsection, a protected cell company may permit a security interest to attach to protected cell assets or a protected cell account which is in favor of a creditor of the protected cell company and otherwise allowed under applicable law.

4. This chapter shall not be construed to prohibit the protected cell company from contracting with or arranging for an investment advisor, commodity trading advisor, or other third party to manage the protected cell assets of a protected cell, provided that all remuneration, expenses, and other compensation of the third-party advisor or manager are payable from the protected cell assets of that protected cell and not from the protected cell assets of other protected cells or the assets of the protected cell company's general account.

5. a. A protected cell company shall establish administrative and accounting procedures necessary to properly identify the protected cells of the protected cell company and the protected cell assets and protected cell liabilities attributable to the protected cells. The board of directors of a protected cell company shall do both of the following:

(1) Keep protected cell assets and protected cell liabilities separate and separately identifiable from the assets and liabilities of the protected cell company's general account.

(2) Keep protected cell assets and protected cell liabilities attributable to one protected cell separate and separately identifiable from protected cell assets and protected cell liabilities attributable to other protected cells.

b. Tracing shall be applicable to protected cell assets when commingled with protected cell assets of other protected cells or the assets of the protected cell company's general account. The remedy of tracing shall not be construed as an exclusive remedy.

6. A protected cell company, when establishing a protected cell, shall attribute to the protected cell assets a value at least equal to the reserves and other insurance liabilities attributed to that protected cell.

Sec. 6. NEW SECTION. 521G.6 USE AND OPERATION OF PROTECTED CELLS.

1. The protected cell assets of a protected cell shall not be charged with liabilities arising out of any other business the protected cell company may conduct. A contract or other documentation reflecting protected cell liabilities shall clearly indicate that only the protected cell assets of a protected cell are available for the satisfaction of the protected cell liabilities attributed to that same protected cell.

2. The income, gains, and losses, realized or unrealized, from protected cell assets and protected cell liabilities shall be credited to or charged against the protected cell without regard to other income, gains, or losses of the protected cell company, including income, gains, or losses of another protected cell. An amount attributed to a protected cell and accumulations on the attributed amount may be invested and reinvested without regard to the requirements and limitations of section 511.8 or 515.35, and the investments in a protected cell shall not be taken into account in applying the investment limitations otherwise applicable to the investments of the protected cell company.

3. Assets and liabilities attributed to a protected cell shall be valued at their fair value on the date of valuation.

4. a. A protected cell company, with respect to its protected cells, shall engage in fully funded indemnity triggered insurance securitization to support in full the protected cell exposures attributable to that protected cell. A protected cell company insurance securitization that is nonindemnity triggered qualifies as an insurance securitization under this chapter only after the commissioner adopts rules providing for all of the following:

(1) The methods of funding of the portion of the risk that is not indemnity based.

(2) Accounting requirements.

(3) Disclosure requirements.

(4) Risk-based capital treatment.

(5) Assessment of risks associated with such securitizations.

b. A protected cell company insurance securitization that is not fully funded, whether indemnity triggered or nonindemnity triggered, is prohibited. Protected cell assets may be used to pay interest or other consideration on an outstanding debt or other obligation attributable to that protected cell. This subsection shall not be construed or interpreted to prevent a protected cell company from entering into a swap agreement or other transaction for the account of the protected cell that has the effect of guaranteeing interest or other consideration.

5. In a protected cell company insurance securitization, a contract or other documentation affecting the transaction shall contain provisions identifying the protected cell to which the transaction is attributed. In addition, the contract or other documentation shall clearly disclose that the assets of the protected cell, and only those assets, are available to pay the obligations of that protected cell. Notwithstanding this subsection, the failure to include such language in a contract or other documentation shall not be used as the sole basis by a creditor, reinsurer, or other claimant to circumvent this chapter.

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.

7. At the cessation of business of a protected cell pursuant to the plan approved by the commissioner, the protected cell company shall close the protected cell account.

Sec. 7. NEW SECTION. 521G.7 CREDITORS AND OTHER CLAIMANTS OF PROTECTED CELLS.

1. a. Protected cell assets shall only be available to a creditor of the protected cell company that is a creditor with respect to that protected cell. Such a creditor shall have recourse to the protected cell assets attributable to that protected cell, to the exclusion of other creditors of the protected cell company that are not creditors with respect to that protected cell. Such other creditors shall have no recourse to the protected cell assets attributable to that protected cell. A creditor with respect to a protected cell does not have recourse against the protected cell assets of other protected cells or the assets of the protected cell company's general account.

b. Protected cell assets shall only be available to creditors of a protected cell company after all protected cell liabilities have been extinguished or otherwise provided for pursuant to the plan of operation relating to that protected cell.

2. An obligation of a protected cell company to a person which arises from a transaction, or is otherwise imposed, with respect to a protected cell, is subject to both of the following:

a. The obligation to a person shall extend only to the protected cell assets attributable to that protected cell, and with respect to that obligation, such person is entitled to recourse only against the protected cell assets attributable to that protected cell.

b. The obligation to a person shall not extend to the protected cell assets of another protected cell or the assets of the protected cell company's general account, and with respect to that obligation, such person is not entitled to recourse against the protected cell assets of any other protected cell or the assets of the protected cell company's general account.

3. An obligation of a protected cell company that relates solely to the general account shall extend only to the assets of the protected cell company's general account, and the creditor, with respect to that obligation, is entitled to recourse against only the assets of the protected cell company's general account.

4. A protected cell is not subject to any requirements relating to a guaranty fund or guaranty association, and shall not be assessed by or otherwise be required to contribute to any guaranty fund or guaranty association in this state with respect to the activities, assets, or obligations of a protected cell. This section does not affect the activities or obligations of a protected cell company's general account.

5. The establishment of one or more protected cells, by itself, does not constitute any of the following:

a. A fraudulent conveyance.

b. An intent by the protected cell company to defraud creditors.

c. The transaction of business by the protected cell company for a fraudulent purpose.

Sec. 8. NEW SECTION. 521G.8 SUPERVISION, REHABILITATION, OR LIQUIDATION OF A PROTECTED CELL COMPANY.

Upon an order of supervision, rehabilitation, or liquidation of a protected cell company, a receiver shall manage a protected cell company's assets and liabilities, including protected cell assets and protected cell liabilities, as provided in this chapter.

An amount recoverable by a receiver under a protected cell company insurance securitization shall not be reduced or diminished as a result of the entry of an order of supervision, rehabilitation, or liquidation with respect to the protected cell company, notwithstanding contrary provisions in a contract or other document governing the protected cell company insurance securitization.

Sec. 9. NEW SECTION. 521G.9 TRANSACTION OF INSURANCE BUSINESS PROHIBITED.

A protected cell company insurance securitization is not an insurance or reinsurance contract. An investor in a protected cell company insurance securitization, by sole means of

this investment, is not deemed to be transacting an insurance business in this state. An underwriter or selling agent, or a partner, director, officer, member, manager, employee, or agent of such underwriter or selling agent, participating in a protected cell company insurance securitization, is not deemed to be conducting an insurance or reinsurance agency, brokerage, intermediary, advisory, or consulting business as a result of such participation.

Sec. 10. NEW SECTION. 521G.10 RULES.

The commissioner shall adopt rules pursuant to chapter 17A as are necessary to administer this chapter.

Approved April 5, 2000

CHAPTER 1047

MOTOR VEHICLE LEMON LAW

S.F. 2315

AN ACT relating to the motor vehicle lemon law, making an administrative fine applicable, and providing an effective date.

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

Section 1. Section 321.24, Code Supplement 1999, is amended by adding the following new unnumbered paragraph after unnumbered paragraph 5:

NEW UNNUMBERED PARAGRAPH. If the prior certificate of title is from another state and indicates that the vehicle was returned to the manufacturer pursuant to a law of another state similar to chapter 322G, the new registration receipt and certificate of title, and all subsequent registration receipts and certificates of title issued for the vehicle, shall contain a designation indicating the vehicle was returned to the manufacturer. The department shall determine the manner in which other states' designations are to be indicated on Iowa registration receipts and certificates of title. The department may determine that a "REBUILT" or "SALVAGE" designation supersedes the designation required by this paragraph and include the "REBUILT" or "SALVAGE" designation on the registration receipt and certificate of title in lieu of the designation required by this paragraph.

Sec. 2. Section 321.46, subsections 1 and 2, Code Supplement 1999, are amended to read as follows:

1. The transferee shall within fifteen calendar days after purchase or transfer apply for and obtain from the county treasurer of the person's residence, or if a nonresident, the county treasurer of the county where the primary users of the vehicle are located or the county where all other vehicles owned by the nonresident are registered, a new registration and a new certificate of title for the vehicle except as provided in section 321.25, ~~or~~ 321.48, or 322G.12. The transferee shall present with the application the certificate of title endorsed and assigned by the previous owner and shall indicate the name of the county in which the vehicle was last registered and the registration expiration date. ~~The~~ Unless the transferee is a manufacturer obtaining a new certificate of title pursuant to section 322G.12, the transferee shall be required to list a driver's license number.

2. Upon filing the application for a new registration and a new title, the applicant shall pay a title fee of ten dollars and a registration fee prorated for the remaining unexpired months of the registration year. A manufacturer applying for a certificate of title pursuant to section 322G.12 shall pay a title fee of two dollars. However, ~~no~~ a title fee shall not be

charged to a mobile home dealer applying for a certificate of title for a used mobile home or manufactured housing, titled in Iowa, as required under section 321.45, subsection 4. The county treasurer, if satisfied of the genuineness and regularity of the application, and in the case of a mobile home or manufactured housing, that taxes are not owing under chapter 435, and that applicant has complied with all the requirements of this chapter, shall issue a new certificate of title and, except for a mobile home, ~~or~~ manufactured housing, or a vehicle returned to and accepted by a manufacturer as described in section 322G.12, a registration card to the purchaser or transferee, shall cancel the prior registration for the vehicle, and shall forward the necessary copies to the department on the date of issuance, as prescribed in section 321.24. Mobile homes or manufactured housing titled under chapter 448 that have been subject under section 446.18 to a public bidder sale in a county~~,~~ shall be titled in the county's name, with no fee, and the county treasurer shall issue the title.

Sec. 3. Section 322G.12, Code 1999, is amended to read as follows:

322G.12 RESALE OF RETURNED VEHICLES.

~~Subsequent to December 31, 1991, a~~ A manufacturer who accepts the return of a motor vehicle pursuant to a settlement, determination, or decision under this chapter shall notify the state department of transportation, ~~and~~ report the vehicle identification number of that motor vehicle within ten days after the acceptance, and obtain a new certificate of title for the vehicle in the manufacturer's name pursuant to section 321.46. In obtaining a new certificate of title, the manufacturer shall title the vehicle in the county of the transferor's residence and shall be exempt from the registration fee requirements of section 321.46. For purposes of chapter 423, a manufacturer's acceptance of the return of a motor vehicle, as described in this section, shall not be considered "use", as defined in section 423.1. The ~~state department of transportation~~ new certificate of title, and all subsequent registration receipts and certificates of title issued for the motor vehicle, shall ~~note the fact~~ contain a designation indicating that the motor vehicle was returned to the manufacturer pursuant to this chapter ~~on the title for the motor vehicle~~ or a similar law of another state. The state department of transportation shall determine the manner in which the designation is to be indicated on registration receipts and certificates of title and may determine that a "REBUILT" or "SALVAGE" designation supersedes the designation required by this paragraph and include the "REBUILT" or "SALVAGE" designation on the registration receipt and certificate of title in lieu of the designation required by this paragraph.

PARAGRAPH DIVIDED. A person shall not knowingly lease~~; or~~, sell, either at wholesale or retail~~;~~, or transfer a title to a motor vehicle returned by reason of a settlement, determination, or decision pursuant to this chapter or a similar ~~statute of any other~~ law of another state unless the nature of the nonconformity is clearly and conspicuously disclosed to the prospective transferee, lessee, or buyer. The attorney general shall prescribe by rule the form, content, and procedure pertaining to such a disclosure statement, recognizing the need of manufacturers to implement a uniform disclosure form. The manufacturer shall make a reasonable effort to ensure that such disclosure is made to the first subsequent retail buyer or lessee. For purposes of this ~~subsection~~ section, "settlement" includes an agreement entered into between the manufacturer and the consumer that occurs after the ~~dispute has been submitted to a state-operated dispute resolution program or to a manufacturer-established program certified in this or any other state, but does not include agreements reached in informal proceedings prior to the first written or oral presentation to the state-operated or state-certified dispute resolution program by either party~~ thirtieth day following the manufacturer's receipt of the consumer's written notification pursuant to section 322G.4. ~~"Settlement" also includes an agreement entered into between a manufacturer and a consumer that occurs after the dispute has been submitted to a dispute resolution program that is not state-operated or state-certified.~~

Sec. 4. EFFECTIVE DATE. This Act takes effect January 1, 2001.

Approved April 5, 2000

CHAPTER 1048

CONTRACT CARE AND FEEDING OF SWINE — PROCESSORS

S.F. 2349

AN ACT prohibiting a processor from contracting for the care and feeding of swine in this state, making penalties applicable, and providing an effective date.

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

Section 1. Section 9H.1, Code Supplement 1999, is amended by adding the following new subsection:

NEW SUBSECTION. 6A. "Contract for the care and feeding of swine" means an oral or written agreement executed between a person and the owner of swine, under which the person agrees to care for and feed the owner's swine on the person's premises. A contract for the care and feeding of swine does not include an agreement for the sale or purchase of swine.

Sec. 2. Section 9H.2, Code 1999, is amended to read as follows:

9H.2 PROHIBITED OPERATIONS — EXCEPTIONS.

In order to preserve free and private enterprise, prevent monopoly, and protect consumers, it is unlawful for any processor of beef or pork or limited partnership in which a processor holds partnership shares as a general partner or partnership shares as a limited partner, or limited liability company in which a processor is a member, to own, control or operate a feedlot in Iowa in which hogs or cattle are fed for slaughter. In addition, a processor shall not directly or indirectly ~~control the manufacturing, processing, or preparation for sale of pork products derived from swine if the processor contracted~~ contract for the care and feeding of ~~the~~ swine in this state. However, this section does not apply to a cooperative association organized under chapter 497, 498, ~~or~~ 499, or 501, if the cooperative association contracts for the care and feeding of swine with a member of the cooperative association who is actively engaged in farming. This section does not apply to an association organized as a cooperative in which another cooperative association organized under chapter 497, 498, ~~or~~ 499, or 501 is a member, if the association contracts with a member which is a cooperative association organized under chapter 497, 498, ~~or~~ 499, or 501, which contracts for the care and feeding of swine with a member of the cooperative who is actively engaged in farming. This section shall not preclude a processor, limited partnership, or limited liability company from contracting for the purchase of hogs or cattle, provided that where the contract sets a date for delivery which is more than twenty days after the making of the contract it shall:

1. Specify a calendar day for delivery of the livestock; or

2. Specify the month for the delivery, and shall allow the farmer to set the week for the delivery within such month and the processor, limited partnership, or limited liability company to set the date for delivery within such week. This section shall not prevent processors or educational institutions from carrying on legitimate research, educational, or demonstration activities, nor shall it prevent processors from owning and operating facilities to provide normal care and feeding of animals for a period not to exceed ten days immediately prior to slaughter, or for a longer period in an emergency. Any processor or limited partnership which owns, controls, or operates a feedlot on August 15, 1975 shall have until July 1, 1985 to dispose of the property. A processor which is in compliance with this section prior to the effective date of this Act and which is in violation of this section as a result of this Act shall have until July 1, 2004, to comply with this Act. A processor shall not take action on or after the effective date of this Act which would be in violation of this section.

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

Approved April 5, 2000

CHAPTER 1049

BREEDING BULLS — HEALTH CERTIFICATES

H.F. 2085

AN ACT relating to health certificate requirements for breeding bulls and making penalties applicable.

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

Section 1. Section 163.40, Code 1999, is amended by adding the following new subsection:
NEW SUBSECTION. 3. "Licensee" means a person required to obtain a license pursuant to section 163.41.

Sec. 2. Section 163.43, Code 1999, is amended to read as follows:
163.43 HEALTH CERTIFICATE REQUIRED.
1. ~~No licensee shall lease as lessor, and no~~ A person shall ~~lease as~~ not be ~~lessee,~~ a party to a lease of a breeding bull within this state in which the lessor is a licensee, unless ~~such~~ the breeding bull is accompanied by a health certificate ~~signed~~. For the purposes of this section, a breeding bull is leased within this state if it is leased to an Iowa resident.
2. The health certificate shall be issued by a licensed veterinarian ~~and showing~~ who examines the breeding bull and signs the health certificate. The health certificate shall include all of the following:
~~1. That the breeding bull has been tested by a licensed veterinarian within sixty days prior to rental and found to be free from Bang's disease, and tuberculosis.~~
~~2.~~ a. ~~That,~~ A statement that to the best of the knowledge and belief of the ~~examining licensed~~ veterinarian, the breeding bull is apparently free from any infectious, contagious, or communicable disease.
b. A statement that the breeding bull has reacted negatively to a test for brucellosis conducted within six months prior to the date that the veterinarian signs the health certificate.
c. If the breeding bull does not originate from this state, a statement that importing the breeding bull satisfies applicable importation requirements.
~~3.~~ d. The identification number of the breeding bull ~~tested and the~~ as required pursuant to section 163.42.
e. The date ~~of issuance of~~ that the health certificate is issued.
3. ~~Such~~ The health certificate shall not be valid ~~for one rental on one premise only~~ after the term of the lease expires or after the breeding bull moves from the lessee's premises. Thereafter, a new health certificate must be issued ~~after the breeding bull has been retested; but no new test for tuberculosis shall be required if the breeding bull is leased within sixty days of the last tuberculosis test~~ as required in this section.
4. One copy of the health certificate shall be ~~filed with the department within fourteen days after its issuance; and one~~ issued to the licensee who shall maintain the health certificate as part of the licensee's business records. One copy of the health certificate shall be issued to the lessee when the breeding bull is delivered to the lessee. A licensee shall show the health certificate ~~of any breeding bull~~ upon ~~the~~ request ~~of~~ to any person designated by the department to enforce the provisions of this ~~division~~ section. ~~The licensee shall also, within ten days after the lease of each breeding bull, notify the department in writing of the name and address of the person to whom the breeding bull is being leased, together with the date of delivery.~~
~~For the purposes of this section, a breeding bull is leased within this state if it is leased to an Iowa resident.~~

Sec. 3. Section 163.46, Code 1999, is amended to read as follows:
163.46 SALE OF SEMEN.
~~It shall be unlawful for the~~ The owner of ~~any~~ a breeding bull located within this state ~~to~~

shall not sell the semen from that bull for the purpose of artificial insemination unless ~~that person has~~ the owner is in possession of a ~~signed~~ health certificate signed and issued by a licensed veterinarian within ~~twelve~~ six months before the date the semen ~~was~~ is collected~~,~~ ~~provided the~~. The health certificate shall not be valid if the bull ~~had not been~~ is moved to ~~any other premise~~ another premises between the date of examination and the date of collection~~,~~ ~~showing~~. The health certificate shall show that on the date of issue the breeding bull had been tested negative for ~~tuberculosis and Bang's disease~~ brucellosis and, to the best knowledge and belief of the examining veterinarian, was ~~apparently~~ free from any infectious, contagious, or communicable disease. ~~If a breeding bull is moved to any other premise after issuance of the health certificate but prior to collection of the semen, that health certificate shall be invalid for purposes of this section.~~

Approved April 5, 2000

CHAPTER 1050

HEALTH ORGANIZATIONS — RISK-BASED CAPITAL REQUIREMENTS

H.F. 2316

AN ACT relating to the regulation of health organizations for purposes of solvency and establishing a measure for the risk-based capital of a health organization.

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

Section 1. NEW SECTION. 521F.1 PURPOSE.

The purpose of this chapter is to establish minimum capital requirements for health organizations that will provide protection related to the risks to which an individual health organization may be subject including, but not limited to, the health organization's asset risk, underwriting risk, credit risk, and other business risk.

Sec. 2. NEW SECTION. 521F.2 DEFINITIONS.

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

1. "Adjusted risk-based capital report" means a risk-based capital report adjusted by the commissioner pursuant to section 521F.3, subsection 4.
2. "Commissioner" means the commissioner of insurance.
3. "Corrective order" means an order issued by the commissioner specifying corrective actions which the commissioner has determined are required.
4. "Domestic health organization" means a health organization domiciled in this state.
5. "Filing date" means March 1 of each year.
6. "Foreign health organization" means a health organization that is not domiciled in this state.
7. "Health organization" means a health maintenance organization, limited service organization, dental or vision plan, hospital, medical and dental indemnity or service corporation or other managed care organization licensed under chapter 514, 514B, or 1993 Iowa Acts, chapter 158, or any other entity engaged in the business of insurance, risk transfer, or risk retention, that is subject to the jurisdiction of the commissioner of insurance or the director of public health. "Health organization" does not include an insurance company licensed to transact the business of insurance under chapter 508, 515, or 520, and which is otherwise subject to chapter 521E.
8. "Revised risk-based capital plan" means a risk-based capital plan that has been rejected by the commissioner and has been revised by the health organization, with or without the commissioner's recommendation.

9. "Risk-based capital instructions" means the instructions included in the risk-based capital report as adopted by the national association of insurance commissioners, as such risk-based capital instructions may be amended by the national association of insurance commissioners from time to time in accordance with the procedures adopted by the national association of insurance commissioners.

10. "Risk-based capital level" means a health organization's company-action-level risk-based capital, regulatory-action-level risk-based capital, authorized-control-level risk-based capital, or mandatory-control-level risk-based capital as follows:

a. "Company-action-level risk-based capital" means the product of two and the health organization's authorized-control-level risk-based capital.

b. "Regulatory-action-level risk-based capital" means the product of one and one-half and the health organization's authorized-control-level risk-based capital.

c. "Authorized-control-level risk-based capital" means the number determined under the risk-based capital formula in accordance with the risk-based capital instructions.

d. "Mandatory-control-level risk-based capital" means the product of seven-tenths and the health organization's authorized-control-level risk-based capital.

11. "Risk-based capital plan" means a comprehensive financial plan containing the elements identified in section 521F.4, subsection 2.

12. "Risk-based capital report" means the report required in section 521F.3.

13. "Total adjusted capital" means the sum of the following:

a. A health organization's statutory capital and surplus.

b. Such other items, if any, as identified in the risk-based capital instructions.

Sec. 3. NEW SECTION. 521F.3 RISK-BASED CAPITAL REPORTS.

1. A domestic health organization, on or prior to the filing date, shall prepare and submit to the commissioner a report of the health organization's risk-based capital levels as of the end of the calendar year immediately preceding the filing date, in a form and containing the information required by the risk-based capital instructions. A domestic health organization shall also file its risk-based capital report with the insurance commissioner in each state in which the health organization is authorized to do business, if such insurance commissioner has notified the health organization of its request in writing. Upon receipt of the written request, the health organization shall file its risk-based capital report with the requesting commissioner by no later than the later of the following:

a. Fifteen days from the receipt of the written request.

b. The filing date.

2. a. A health organization's risk-based capital shall be determined pursuant to the formula set forth in the risk-based capital instructions. The formula shall take into account all of the following, and may by[1] adjusted, as deemed appropriate by the commissioner, for the covariance between the following:

(1) Assets risk.

(2) Credit risk.

(3) Underwriting risk.

(4) All other business risks and other relevant risks as identified in the risk-based capital instructions.

b. The risk factors shall be applied in the manner set forth in the risk-based capital instructions.

3. A health organization shall seek to maintain capital above the risk-based capital levels required by this chapter.

4. A risk-based capital report filed by a domestic health organization which in the judgment of the commissioner is inaccurate, shall be adjusted by the commissioner to correct the inaccuracy. The commissioner shall notify the health organization of the adjustment. The notice shall contain a statement of the reason for the adjustment.

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[1] See chapter 1232, §79 herein

Sec. 4. NEW SECTION. 521F.4 COMPANY-ACTION-LEVEL EVENT.

1. "Company-action-level event" means any of the following:

a. The filing of a risk-based capital report by a health organization which indicates that the health organization's total adjusted capital is greater than or equal to its regulatory-action-level risk-based capital but less than its company-action-level risk-based capital.

b. Notification by the commissioner to a health organization of an adjusted risk-based capital report that indicates an event in paragraph "a", provided the health organization does not challenge the adjusted risk-based capital report and request a hearing pursuant to section 521F.8.

c. If a hearing is requested pursuant to section 521F.8, notification by the commissioner to the health organization after the hearing that the commissioner has rejected the health organization's challenge of the adjusted risk-based capital report indicating the event in paragraph "a".

2. Upon the occurrence of a company-action-level event, the health organization shall prepare and submit to the commissioner a risk-based capital plan that includes all of the following:

a. Identification of the conditions which contributed to the company-action-level event.

b. Proposed corrective actions which the health organization intends to implement and which are expected to result in the elimination of the company-action-level event.

c. Projections of the health organization's financial results for the current year and at least the two succeeding years, including projections of statutory balance sheets, operating income, net income, capital and surplus, and risk-based capital levels. Projections shall be provided assuming the absence of the proposed corrective actions and assuming the implementation of the proposed corrective actions. Projections shall be provided for each major line of business and separately identify each significant income, expense, and benefit component.

d. Identification of the primary assumptions impacting the health organization's projections and the sensitivity of the projections to the assumptions.

e. Identification of the quality of, and problems associated with, the health organization's business, including but not limited to its assets, anticipated business growth and associated surplus strain, extraordinary exposure to risk, mix of business, and use of reinsurance, if any, in each case.

3. The risk-based capital plan shall be filed within forty-five days of the company-action-level event, or, if the health organization requests a hearing pursuant to section 521F.8 for the purpose of challenging the adjusted risk-based capital report, within forty-five days after notification to the insurer that the commissioner, after hearing, has rejected the insurer's challenge.[2]

4. Within sixty days after the submission by a health organization of a risk-based capital plan to the commissioner, the commissioner shall notify the health organization whether the risk-based capital plan shall be implemented or, in the judgment of the commissioner, is unsatisfactory. If the commissioner determines the risk-based capital plan is unsatisfactory, the notification to the health organization shall set forth the reasons for the determination, and may set forth proposed revisions which in the judgment of the commissioner will render the risk-based capital plan satisfactory. Upon the receipt of the notification from the commissioner, the health organization shall prepare a revised risk-based capital plan, which may incorporate by reference any revisions proposed by the commissioner, and file the revised risk-based capital plan with the commissioner.

5. The revised risk-based capital plan shall be filed within forty-five days of the receipt of notification from the commissioner of the commissioner's determination that the risk-based capital plan is unsatisfactory, or, if the health organization requests a hearing pursuant to section 521F.8 for the purpose of challenging the commissioner's determination, within forty-five days after notification to the health organization that the commissioner, after hearing, has rejected the health organization's challenge.

6. After notification of the health organization by the commissioner that the health organization's risk-based capital plan or revised risk-based capital plan is unsatisfactory,

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[2] See chapter 1232, §80 herein

the commissioner, pursuant to section 521F.8, may specify in the notification that the notification constitutes a regulatory-action-level event.

7. a. A domestic health organization that files a risk-based capital plan or revised risk-based capital plan with the commissioner shall file a copy of the risk-based capital plan or revised risk-based capital plan with the insurance commissioner in a state in which the health organization is authorized to do business if both of the following apply:

(1) The other state has a risk-based capital provision substantially similar to section 521F.9, with respect to the confidentiality and availability of such plans.

(2) The insurance commissioner of that state has notified the health organization in writing of its request to receive a copy of the risk-based capital plan or revised risk-based capital plan.

b. Upon receipt of the written request under paragraph "a", subparagraph (2), the health organization shall file a copy of the risk-based capital plan or revised risk-based capital plan with the requesting commissioner by no later than the later of the following:

(1) Fifteen days after the receipt of the written request.

(2) The date on which the risk-based capital plan or revised risk-based capital plan is filed under subsection 3 or 5, as applicable.

Sec. 5. NEW SECTION. 521F.5 REGULATORY-ACTION-LEVEL EVENT.

1. "Regulatory-action-level event" means any of the following:

a. The filing of a risk-based capital report by the health organization that indicates that the health organization's total adjusted capital is greater than or equal to its authorized-control-level risk-based capital but less than its regulatory-action-level risk-based capital.

b. Notification by the commissioner to a health organization of an adjusted risk-based capital report that indicates the event in paragraph "a", provided the health organization does not challenge the adjusted risk-based capital report and request a hearing pursuant to section 521F.8.

c. After a hearing pursuant to section 521F.8, notification by the commissioner to the health organization that the commissioner has rejected the health organization's challenge of the adjusted risk-based capital report indicating the event in paragraph "a".

d. Failure of the health organization to file a risk-based capital report by the filing date, unless the health organization has provided an explanation for the failure which is satisfactory to the commissioner and has cured the failure within ten days after the filing date.

e. Failure of the health organization to submit a risk-based capital plan to the commissioner within the time period set forth in section 521F.4, subsection 3.

f. Notification by the commissioner to the health organization of both of the following:

(1) The risk-based capital plan or revised risk-based capital plan filed by the health organization, in the judgment of the commissioner, is unsatisfactory.

(2) Notification pursuant to this paragraph constitutes a regulatory-action-level event with respect to the health organization, provided the health organization has not challenged the determination pursuant to section 521F.8.

g. After a hearing pursuant to section 521F.8, notification by the commissioner to the health organization that the commissioner has rejected the health organization's challenge of the determination made by the commissioner pursuant to paragraph "f".

h. Notification by the commissioner to the health organization that the health organization has failed to adhere to its risk-based capital plan or revised risk-based capital plan, but only if the failure has a substantial adverse effect on the ability of the health organization to eliminate the company-action-level event pursuant to the health organization's risk-based capital plan or revised risk-based capital plan and the commissioner has so stated in the notification. However, notification by the commissioner pursuant to this paragraph does not constitute a company-action-level event if the health organization has challenged the determination of the commissioner pursuant to section 521F.8.

i. After a hearing pursuant to section 521F.8, notification by the commissioner to the health organization that the commissioner rejected the health organization's challenge of the commissioner's determination pursuant to paragraph "h".

2. Upon the occurrence of a regulatory-action-level event, the commissioner shall do all of the following:

a. Require the health organization to prepare and submit a risk-based capital plan or revised risk-based capital plan, as applicable.

b. Perform an examination or analysis of the assets, liabilities, and operations of the health organization, including a review of its risk-based capital plan or revised risk-based capital plan.

c. Subsequent to the examination or analysis pursuant to paragraph "b", issue a corrective order.

3. The commissioner, in determining the corrective actions to be ordered, may take into account factors the commissioner deems relevant with respect to the health organization based upon the commissioner's examination or analysis of the assets, liabilities, and operations of the health organization, including, but not limited to, the results of any sensitivity tests undertaken pursuant to the risk-based capital instructions. The risk-based capital plan or revised risk-based capital plan shall be submitted within forty-five days after the occurrence of the regulatory-action-level event, except as follows:

a. If the health organization challenges a risk-based capital report pursuant to section 521F.8, and in the judgment of the commissioner the challenge is not frivolous, within forty-five days after the notification to the health organization that the commissioner, after a hearing pursuant to section 521F.8, has rejected the health organization's challenge.

b. If the health organization challenges a revised risk-based capital plan pursuant to section 521F.8, and in the judgment of the commissioner the challenge is not frivolous, within forty-five days after the notification to the health organization that the commissioner, after a hearing pursuant to section 521F.8, has rejected the health organization's challenge.

4. The commissioner may retain actuaries, investment experts, and other consultants as deemed necessary by the commissioner to review the health organization's risk-based capital plan or revised risk-based capital plan; examine or analyze the assets, liabilities, and operations of the health organization; and assist in the formulation of the corrective order with respect to the health organization. Fees of the actuaries, investment experts, or other consultants retained by the commissioner shall be paid by the health organization subject to the review or examination.

Sec. 6. NEW SECTION. 521F.6 AUTHORIZED-CONTROL-LEVEL EVENT.

1. "Authorized-control-level event" means any of the following:

a. The filing of a risk-based capital report by the health organization which indicates that the health organization's total adjusted capital is greater than or equal to its mandatory-control-level risk-based capital but less than its authorized-control-level risk-based capital.

b. Notification by the commissioner to a health organization of an adjusted risk-based capital report that indicates the event in paragraph "a", provided the health organization does not challenge the adjusted risk-based capital report and request a hearing pursuant to section 521F.8.

c. After a hearing pursuant to section 521F.8, notification by the commissioner to the health organization that the commissioner has rejected the health organization's challenge of the adjusted risk-based capital report indicating the event in paragraph "a".

d. Failure of the health organization to respond to a corrective order in a manner satisfactory to the commissioner, unless the health organization has challenged the corrective order pursuant to section 521F.8.

e. Failure of the health organization to respond to a corrective order in a manner satisfactory to the commissioner after the health organization has challenged the corrective order pursuant to section 521F.8, and the commissioner, after a hearing pursuant to section 521F.8, has rejected the challenge or modified the corrective order.

2. In the event of an authorized-control-level event, the commissioner shall do either of the following:

a. Take action as required pursuant to section 521F.5 in the same manner as if a regulatory-action-level event has occurred.

b. Take action as necessary to cause the health organization to be placed under supervision or other regulatory control under chapter 507C, if the commissioner deems such action to be in the best interests of the policyholders and creditors of the health organization and of the public. If the commissioner takes such action pursuant to this paragraph, the authorized-control-level event is deemed sufficient grounds for the commissioner to take action pursuant to chapter 507C and the commissioner has the rights, powers, and duties with respect to the health organization as set forth in chapter 507C. If the commissioner takes action under this paragraph pursuant to an adjusted risk-based capital report, the health organization is entitled to the protections of chapter 17A pertaining to summary proceedings.

Sec. 7. NEW SECTION. 521F.7 MANDATORY-CONTROL-LEVEL EVENT.

1. "Mandatory-control-level event" means any of the following:

a. The filing of a risk-based capital report which indicates that a health organization's total adjusted capital is less than its mandatory-control-level risk-based capital.

b. Notification by the commissioner to a health organization of an adjusted risk-based capital report that indicates the event in paragraph "a", provided the health organization does not challenge the adjusted risk-based capital report and request a hearing pursuant to section 521F.8.

c. After a hearing pursuant to section 521F.8, notification by the commissioner to the health organization that the commissioner has rejected the health organization's challenge of the adjusted risk-based capital report indicating the event in paragraph "a".

2. In the event of a mandatory-control-level event, the commissioner shall take action as necessary to place the health organization under supervision or other regulatory control pursuant to chapter 507C. If the commissioner takes action pursuant to this subsection, the mandatory-control-level event is deemed sufficient grounds for the commissioner to take action pursuant to chapter 507C, and the commissioner has the rights, powers, and duties with respect to the health organization as are set forth in chapter 507C. If the commissioner takes action pursuant to an adjusted risk-based capital report, the health organization is entitled to the protections of chapter 17A pertaining to summary proceedings. Notwithstanding this subsection, the commissioner may forego action for up to ninety days after the mandatory-control-level event if the commissioner finds a reasonable expectation exists that the mandatory-control-level event may be eliminated within the ninety-day period.

Sec. 8. NEW SECTION. 521F.8 CONFIDENTIAL HEARINGS.

1. A health organization receiving a notification pursuant to subsection 2 is entitled to a confidential hearing before the insurance division, at which the health organization may challenge a determination or action by the commissioner. Upon receipt of the health organization's request for a hearing, the commissioner shall set a date for the hearing, which shall be not less than ten and not more than thirty days after the date of the health organization's request.

2. A health organization shall notify the commissioner of the health organization's request for a confidential hearing within five days after the occurrence of any of the following:

a. Notification to a health organization by the commissioner of an adjusted risk-based capital report.

b. Notification to a health organization by the commissioner of both of the following:

(1) The[3] health organization's risk-based capital plan or revised risk-based capital plan is unsatisfactory.

(2) That the notification pursuant to this paragraph constitutes a regulatory-action-level event with respect to the health organization.

c. Notification to a health organization by the commissioner that the health organization has failed to adhere to its risk-based capital plan or revised risk-based capital plan and that

[3] See chapter 1232, §81 herein

the failure has a substantial adverse effect on the ability of the health organization to eliminate the company-action-level event in accordance with its risk-based capital plan or revised risk-based capital plan.

d. Notification to a health organization by the commissioner of a corrective order with respect to the health organization.

Sec. 9. NEW SECTION. 521F.9 CONFIDENTIALITY — USE OF REPORTS AND INFORMATION — PROHIBITION ON ANNOUNCEMENTS — PROHIBITION ON USE IN RATEMAKING.

1. A risk-based capital report, to the extent the information in the report is not required to be set forth in a publicly available annual statement schedule, a risk-based capital plan, including the results or report of any examination or analysis of a health organization performed pursuant to this chapter, and any corrective order issued by the commissioner pursuant to an examination or analysis, which are filed with the commissioner, are deemed not to be public records under chapter 22 and are privileged and confidential. This information shall not be made public and is not subject to subpoena, other than by the commissioner, and then only for the purpose of enforcement actions taken by the commissioner pursuant to this chapter or any other provision of the insurance laws of this state.

2. The comparison of a health organization's total adjusted capital to any of its risk-based capital levels is a regulatory tool which may indicate the need for possible corrective action with respect to the health organization, and is not to be used as a means to rank health organizations generally.

3. Except as otherwise required under this chapter, the publication or dissemination in any manner of an announcement or statement which contains an assertion, representation, or statement with regard to the risk-based capital levels of a health organization, or of a component derived in the calculation, by a health organization, agent, broker, or other person engaged in any manner in the business of insurance, is prohibited. However, if a materially false statement comparing a health organization's total adjusted capital to its risk-based capital levels or a misleading comparison of any other amount to the health organization's risk-based capital levels is published or disseminated in any manner and if the health organization is able to demonstrate to the commissioner with substantial proof that the statement is false, misleading, or inappropriate, as the case may be, the health organization may publish an announcement in a written publication for the sole purpose of rebutting the materially false, misleading, or inappropriate statement.

4. The risk-based capital instructions, risk-based capital reports, adjusted risk-based capital reports, risk-based capital plans, and revised risk-based capital plans shall be solely used by the commissioner in monitoring the solvency of health organizations and the need for possible corrective action with respect to health organizations. The risk-based capital instructions, risk-based capital reports, adjusted risk-based capital reports, risk-based capital plans, and revised risk-based capital plans shall not be used by the commissioner for ratemaking and shall not be considered or introduced as evidence in any rate proceeding or used by the commissioner to calculate or derive any elements of an appropriate premium level or rate of return for any line of insurance which a health organization or any affiliate is authorized to write.

Sec. 10. NEW SECTION. 521F.10 SUPPLEMENTAL PROVISIONS — RULES — EXEMPTION.

1. This chapter shall not preclude or limit any other powers or duties of the commissioner under insurance laws including but not limited to chapter 507C.

2. The commissioner may adopt rules pursuant to chapter 17A as are necessary for the administration of this chapter.

3. The commissioner may exempt from filing a risk-based capital report a domestic health organization which writes direct business only in this state and satisfies any of the following:

a. Writes direct annual premiums of one hundred thousand dollars or less, and does not assume reinsurance in excess of five percent of direct annual premiums written.

b. Is authorized to do business pursuant to chapter 514 and writes direct annual premiums of one hundred thousand dollars or less.

c. Is a limited health service organization that covers fewer than five hundred lives.

Sec. 11. NEW SECTION. 521F.11 FOREIGN HEALTH ORGANIZATIONS.

1. A foreign health organization, upon the written request of the commissioner, shall submit to the commissioner a risk-based capital report for the previous calendar year just ended by the later of the following:

a. The filing date.

b. Fifteen days after the request is received by the foreign health organization.

2. A foreign health organization, upon the written request of the commissioner, shall promptly submit to the commissioner a copy of any risk-based capital plan that is filed with the insurance commissioner of any other state.

3. The commissioner may require a foreign health organization to file a risk-based capital plan under either of the following circumstances:

a. In the event of a company-action-level event, regulatory-action-level event, or authorized-control-level event as determined under the risk-based capital statute applicable in the state of domicile of the foreign health organization, or, if no risk-based capital statute is in force in that state, under this chapter.

b. The insurance commissioner of the state of domicile of the foreign health organization fails to require the foreign health organization to file a risk-based capital plan in the manner specified under that state's risk-based capital statute, or if no risk-based capital statute is in force in that state, pursuant to this chapter.

4. The failure of the foreign health organization to file a risk-based capital plan is sufficient grounds to order the health organization to cease and desist from writing new insurance business in this state.

5. In the event of a mandatory-control-level event with respect to a foreign health organization, if a domiciliary receiver has not been appointed with respect to the foreign health organization under the rehabilitation and liquidation statute applicable in the state of domicile of the foreign health organization, the commissioner may make application to the district court as permitted under chapter 507C with respect to the liquidation of property of foreign health organizations found in this state, and the occurrence of the mandatory-control-level event shall be considered adequate grounds for the application.

Sec. 12. NEW SECTION. 521F.12 IMMUNITY.

Liability shall not arise on the part of and a cause of action shall not arise against the commissioner or the insurance division or its employees or agents for an action taken in the exercise of powers or performance of duties under this chapter.

Sec. 13. NEW SECTION. 521F.13 NOTICES.

Notice by the commissioner to a health organization which may result in regulatory action under this chapter is effective upon being sent if transmitted by certified mail, or, in the case of any other transmission, is effective upon the health organization's receipt of the notice.

Approved April 5, 2000

CHAPTER 1051

REVIEW OF CHILD DEATHS

H.F. 2365

AN ACT providing for review of deaths of children under the age of eighteen by the child death review team.

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

Section 1. Section 135.43, subsection 3, paragraph a, Code 1999, is amended to read as follows:

a. Collect, review, and analyze child death certificates and child death data, including patient records or other pertinent confidential information concerning the deaths of children under age ~~six or younger~~ eighteen, and other information as the review team deems appropriate for use in preparing an annual report to the governor and the general assembly concerning the causes and manner of child deaths. The report shall include analysis of factual information obtained through review and recommendations regarding prevention of child deaths.

Approved April 5, 2000

CHAPTER 1052

ORGAN AND TISSUE DONOR REGISTRY

H.F. 2385

AN ACT providing for establishment of a statewide organ and tissue donor registry.

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

Section 1. Section 142C.15, subsection 4, paragraph a, Code 1999, is amended to read as follows:

a. Not more than twenty percent of the moneys in the fund annually may be expended in the form of grants to state agencies or to nonprofit legal entities with an interest in anatomical gift public awareness and transplantation to conduct public awareness projects or to research and develop a statewide organ and tissue donor registry. Grants shall be made based upon the submission of a grant application by an agency or entity to conduct a public awareness project or to research and develop a statewide organ and tissue donor registry.

Sec. 2. NEW SECTION. 142C.18 STATEWIDE ORGAN AND TISSUE DONOR REGISTRY.

The director of public health may contract for the establishment of a statewide organ and tissue donor registry. The contract shall provide for a centralized database and automated system to make organ and tissue donor information available to family members and physicians seven days a week, twenty-four hours per day. The registry shall be used to compile the organ and tissue donation information received by the state department of transportation, county treasurers, attorneys, organ donation awareness programs, and others.

The director of public health shall work with the state department of transportation, county treasurers, and the Iowa organ donor network in developing specifications for the registry. Consideration shall be given to implementing an automated toll-free hotline and providing internet access to the registry.

Sec. 3. STATEWIDE ORGAN AND TISSUE DONOR REGISTRY — STUDY — IMPLEMENTATION. If sufficient funding is available from state appropriations, federal funding, or private sources, the Iowa department of public health shall conduct a feasibility study for implementation of a statewide organ and tissue donor registry as described in this Act. Implementation of the registry is contingent upon the department securing sufficient funding to support initial start-up and ongoing administrative costs associated with the operation of the registry.

Approved April 5, 2000

CHAPTER 1053

ACUPUNCTURE — LICENSURE AND REGULATION

S.F. 182

AN ACT requiring licensure to practice acupuncture.

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

Section 1. Section 147.1, subsections 3 and 6, Code 1999, are amended to read as follows:

3. "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, ~~or~~ athletic trainer, or acupuncturist, means a person licensed under this subtitle.

6. "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, ~~or~~ athletic training, or acupuncture.

Sec. 2. Section 147.2, Code 1999, is amended to read as follows:

147.2 LICENSE REQUIRED.

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, ~~or~~ mortuary science, or acupuncture, 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. 3. Section 147.74, subsection 18, Code Supplement 1999, is amended to read as follows:

18. An acupuncturist ~~registered~~ licensed under chapter 148E may use the words ~~"registered~~ "licensed acupuncturist" after the person's name.

Sec. 4. Section 147.80, subsection 24, Code 1999, is amended to read as follows:

24. ~~Registration~~ License to practice acupuncture, ~~registration~~ license to practice acupuncture under a reciprocal agreement, or renewal of ~~registration~~ a license to practice acupuncture.

Sec. 5. Section 148E.1, Code 1999, is amended by striking the section and inserting in lieu thereof the following:

148E.1 DEFINITIONS.

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

1. "Acupuncture" means a form of health care developed from traditional and modern oriental medical concepts that employs oriental medical diagnosis and treatment, and adjunctive therapies and diagnostic techniques, for the promotion, maintenance, and restoration of health and the prevention of disease.

2. "Acupuncturist" means a person who is engaged in the practice of acupuncture.

3. "Board" means the board of medical examiners established in chapter 147.

4. "Practice of acupuncture" means the insertion of acupuncture needles and the application of moxibustion to specific areas of the human body based upon oriental medical diagnosis as a primary mode of therapy. Adjunctive therapies within the scope of acupuncture may include manual, mechanical, thermal, electrical, and electromagnetic treatment, and the recommendation of dietary guidelines and therapeutic exercise based on traditional oriental medicine concepts.

Sec. 6. Section 148E.2, Code 1999, is amended by striking the section and inserting in lieu thereof the following:

148E.2 LICENSE REQUIRED — RENEWAL.

1. In order to obtain a license to practice acupuncture, an applicant shall present evidence to the board of all of the following:

a. Current active status as a diplomate in acupuncture of the national commission for the certification of acupuncturists.

b. Successful completion of a three-year postsecondary training program or acupuncture college program which is accredited by, in candidacy for accreditation by, or which meets the standards of the national accreditation commission for schools and colleges of acupuncture and oriental medicine.

c. Successful completion of a course in clean needle technique approved by the national commission for the certification of acupuncturists.

2. Notwithstanding subsection 1, a license to practice acupuncture shall be granted by the board to a resident of this state who has successfully completed an acupuncture degree program approved by the board, or an apprenticeship or tutorial program approved by the board, on or before July 1, 2001.

3. A license granted pursuant to this section shall be renewed every two years. Renewal shall require evidence of current active membership in the national commission for the certification of acupuncturists.

Sec. 7. Section 148E.3, Code 1999, is amended by striking the section and inserting in lieu thereof the following:

148E.3 SCOPE OF CHAPTER.

This chapter does not apply to the following:

1. A person otherwise licensed to practice medicine and surgery, osteopathy, osteopathic medicine and surgery, chiropractic, podiatry, or dentistry who is exclusively engaged in the practice of the person's professions.[1]

2. A student practicing acupuncture under the direct supervision of a licensed acupuncturist as part of a course of study approved by the board.

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[1] See chapter 1232, §49 herein

Sec. 8. Section 148E.4, Code 1999, is amended by striking the section and inserting in lieu thereof the following:

148E.4 STANDARD OF CARE.

A person licensed under this chapter shall be held to the same standard of care as a person licensed to practice medicine and surgery, osteopathy, or osteopathic medicine and surgery.

Sec. 9. Section 148E.5, Code 1999, is amended by striking the section and inserting in lieu thereof the following:

148E.5 USE AND DISPOSAL OF NEEDLES.

An acupuncturist shall use only presterilized, disposable needles, and shall provide for adequate disposal of used needles.

Sec. 10. Section 148E.6, Code 1999, is amended by striking the section and inserting in lieu thereof the following:

148E.6 DISPLAY OF CERTIFICATE AND DISCLOSURE OF INFORMATION TO PATIENTS.

An acupuncturist shall display the license issued pursuant to section 148E.2 in a conspicuous place in the acupuncturist's place of business. An acupuncturist shall provide to each patient upon initial contact with the patient the following information in written form:

1. The name, business address, and business telephone number of the acupuncturist.
2. A fee schedule.
3. A listing of the acupuncturist's education, experience, degrees, certificates, or credentials related to acupuncture awarded by professional acupuncture organizations, the length of time required to obtain the degrees or credentials, and experience.
4. A statement indicating any license, certificate, or registration in a health care occupation which was revoked by any local, state, or national health care agency.
5. A statement that the acupuncturist is complying with statutes and rules adopted by the board, including a statement that only presterilized, disposable needles are used by the acupuncturist.
6. A statement indicating that the practice of acupuncture is regulated by the board.
7. A statement indicating that a license to practice acupuncture does not authorize a person to practice medicine and surgery in this state, and that the services of an acupuncturist must not be regarded as diagnosis and treatment by a person licensed to practice medicine and must not be regarded as medical opinion or advice.

Sec. 11. Section 148E.7, Code 1999, is amended by striking the section and inserting in lieu thereof the following:

148E.7 DUTIES OF BOARD.

The board shall adopt rules consistent with this chapter and chapter 147 which are necessary for the performance of its duties.

Sec. 12. Section 148E.8, Code 1999, is amended by striking the section and inserting in lieu thereof the following:

148E.8 LICENSE REVOCATION OR SUSPENSION.

In addition to the grounds for revocation or suspension referred to in section 147.55, a license to practice acupuncture shall be revoked or suspended when the acupuncturist is guilty of any of the following acts or offenses:

1. Failure to provide information as required in section 148E.6 or provision of false information to patients.
2. Acceptance of remuneration for referral of a patient to other health professionals.
3. Offering of or giving of remuneration for the referral of patients, not including paid advertisements or marketing services.
4. Failure to comply with this chapter, rules adopted pursuant to this chapter, or applicable provisions of chapter 147.

5. Engaging in sexual activity or genital contact with a patient while acting or purporting to act within the scope of practice, whether or not the patient consented to the sexual activity or genital contact.
6. Disclosure of confidential information regarding the patient.

Sec. 13. Section 148E.9, Code 1999, is amended by striking the section and inserting in lieu thereof the following:
148E.9 ACCIDENT AND HEALTH INSURANCE COVERAGE.
This chapter shall not be construed to require accident and health insurance coverage for acupuncture services under an existing or future contract or policy for insurance issued or issued for delivery in this state, unless otherwise provided by the contract or policy.

Sec. 14. Section 148E.10, Code 1999, is repealed.

Approved April 6, 2000

CHAPTER 1054

SCHOOL TAXES — PHYSICAL PLANT AND EQUIPMENT
LEVY — URBAN RENEWAL PROJECTS

S.F. 2089

AN ACT relating to collection of the physical plant and equipment property tax levy in certain urban renewal areas and providing an applicability date.

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

Section 1. Section 298.3, Code 1999, is amended by adding the following new subsection:
NEW SUBSECTION. 12. Payments to a municipality or other entity as required under section 403.19, subsection 2.

Sec. 2. Section 403.19, subsection 2, Code 1999, is amended to read as follows:
2. That portion of the taxes each year in excess of such amount shall be allocated to and when collected be paid into a special fund of the municipality to pay the principal of and interest on loans, moneys advanced to, or indebtedness, whether funded, refunded, assumed, or otherwise, including bonds issued under the authority of section 403.9, subsection 1, incurred by the municipality to finance or refinance, in whole or in part, an urban renewal project within the area, and to provide assistance for low and moderate income family housing as provided in section 403.22, except that taxes for the regular and voter-approved physical plant and equipment levy of a school district imposed pursuant to section 298.2 and taxes for the payment of bonds and interest of each taxing district must be collected against all taxable property within the taxing district without limitation by the provisions of this subsection. However, all or a portion of the taxes for the physical plant and equipment levy shall be paid by the school district to the municipality if the municipality certifies to the school district by July 1 the amount of such levy that is necessary to pay the principal and interest on indebtedness incurred by the municipality to finance an urban renewal project, which indebtedness was incurred before July 1, 2000. Such school district shall pay over the amount certified by November 1 following certification to the school district. Unless and until the total assessed valuation of the taxable property in an urban renewal area exceeds the total assessed value of the taxable property in such area as shown by the last equalized assessment roll referred to in subsection 1, all of the taxes levied and collected upon the taxable property in the urban renewal area shall be paid into the funds for the respective

taxing districts as taxes by or for the taxing districts in the same manner as all other property taxes. When such loans, advances, indebtedness, and bonds, if any, and interest thereon, have been paid, all moneys thereafter received from taxes upon the taxable property in such urban renewal area shall be paid into the funds for the respective taxing districts in the same manner as taxes on all other property.

Sec. 3. APPLICABILITY DATE. This Act applies to property taxes due and owing on or after July 1, 2000.

Approved April 6, 2000

CHAPTER 1055

SCHOOL FINANCE — BUDGET ADJUSTMENTS

S.F. 2111

AN ACT relating to certain school finance formula provisions and providing an effective date.

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

Section 1. Section 257.13, Code Supplement 1999, is amended by striking the section and inserting in lieu thereof the following:

257.13 ON-TIME FUNDING BUDGET ADJUSTMENT.

1. For the school budget year beginning July 1, 2000, if a district's actual enrollment for the budget year, determined under section 257.6, is greater than its budget enrollment for the budget year, the district shall be eligible to receive an on-time funding budget adjustment. The adjustment shall be in an amount equal to fifty percent of the difference between the actual enrollment for the budget year and the budget enrollment for the budget year, multiplied by district cost per pupil.

2. The board of directors of a school district that wishes to receive an on-time funding budget adjustment shall adopt a resolution to receive the adjustment and notify the school budget review committee by November 1, 2000. The school budget review committee shall establish a modified allowable growth in an amount determined pursuant to subsection 1.

3. If the board of directors of a school district determines that a need exists for additional funds exceeding the authorized budget adjustment for on-time funding pursuant to this section, a request for modified allowable growth based upon increased enrollment may be submitted to the school budget review committee as provided in section 257.31.

Sec. 2. Section 257.14, subsection 1, Code Supplement 1999, is amended to read as follows:

1. For the budget ~~years~~ year commencing ~~July 1, 1997, July 1, 1998, and~~ July 1, ~~1999~~ 2000, if the department of management determines that the regular program district cost of a school district for a budget year is less than the total of the regular program district cost plus any adjustment added under this section for the base year for that school district, the ~~department of management shall provide~~ school district shall be eligible to receive a budget adjustment for that district for that budget year ~~that is~~ up to an amount equal to the difference. The board of directors of a school district that wishes to receive a budget adjustment pursuant to this subsection shall, notwithstanding the public notice and hearing provisions of chapter 24 or any other provision to the contrary, within thirty days following the enactment of this Act adopt a resolution to receive the budget adjustment and immediately notify the department of management of the adoption of the resolution and the amount of the budget adjustment to be received.

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

Approved April 6, 2000

CHAPTER 1056

JUVENILE COURT JURISDICTION

S.F. 2221

AN ACT relating to juvenile court jurisdiction and the prosecution of juveniles in juvenile and district court.

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

Section 1. Section 232.8, subsection 3, Code 1999, is amended to read as follows:

3. The juvenile court, after a hearing and in accordance with the provisions of section 232.45, may waive jurisdiction of a child alleged to have committed a public offense so that the child may be prosecuted as an adult or youthful offender for such offense in another court. If the child, except a child being prosecuted as a youthful offender, pleads guilty or is found guilty of a public offense other than a class "A" felony in another court of this state that court may suspend the sentence or, with the consent of the child, defer judgment and without regard to restrictions placed upon deferred judgments for adults, place the child on probation for a period of not less than one year upon such conditions as it may require. Upon fulfillment of the conditions of probation ~~the~~, a child who receives a deferred judgment shall be discharged without entry of judgment.

Sec. 2. Section 232.53, subsections 2 and 3, Code 1999, are amended to read as follows:

2. All dispositional orders entered prior to the child attaining the age of seventeen years ~~and six months~~ shall automatically terminate when the child becomes eighteen years of age. Dispositional orders entered subsequent to the child attaining the age of seventeen years ~~and six months~~ and prior to the child's eighteenth birthday shall automatically terminate one year and six months after the date of disposition. In the case of an adult within the jurisdiction of the court under the provisions of section 232.8, subsection 1, the dispositional order shall automatically terminate one year and six months after the last date upon which jurisdiction could attach.

3. Notwithstanding section 233A.13, a child committed to the training school subsequent to the child attaining the age of seventeen years ~~and six months~~ and prior to the child's eighteenth birthday may be held at the school beyond the child's eighteenth birthday pursuant to subsection 2 provided that the training school makes application to and receives permission from the committing court. This extension shall be for the purpose of completion by the child of a course of instruction established for the child pursuant to section 233A.4 and cannot extend for more than one year and six months beyond the date of disposition.

Approved April 6, 2000

CHAPTER 1057

ADMINISTRATION OF JUSTICE — APPOINTMENTS — BENEFITS — MAGISTRATE APPORTIONMENT

S.F. 2303

AN ACT relating to judicial administration by providing for benefits applicable to judicial branch employees, the allocation of magistrates, and the manner of making certain non-court and administrative appointments, and requesting a legislative study.

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

Section 1. Section 331.321, subsection 1, paragraph p, Code 1999, is amended to read as follows:

p. ~~One member~~ Two members of the civil service commission for deputy sheriffs in accordance with section 341A.2 or 341A.3, and the board may remove the ~~member~~ members in accordance with those sections.

Sec. 2. Section 331.754, subsection 1, Code 1999, is amended to read as follows:

1. In case of absence, sickness, or disability of the county attorney and the assistant county attorneys, the ~~court before which it is the duty of the county attorney or the assistant county attorneys to appear and in which there is official business requiring the attention of the county attorney or an assistant county attorney,~~ board of supervisors may appoint an attorney to act as county attorney ~~by an order of the court~~. ~~The board may appoint an acting county attorney to provide legal assistance related to the official business of any county officer or employee during the absence, sickness, or disability of the county attorney and the assistant county attorneys.~~ The acting county attorney has the same authority and is subject to the same responsibilities as a county attorney.

Sec. 3. Section 341A.2, Code 1999, is amended to read as follows:

341A.2 CIVIL SERVICE COMMISSION.

Subject to the alternate plan enumerated in section 341A.3, there is created in each county a civil service commission composed of three members. ~~One member~~ Two members shall be appointed by the county board of supervisors~~, one member shall be appointed by the presiding district court judge of each county,~~ and one member shall be appointed by the county attorney of each county. ~~Commission members shall be appointed within sixty days after August 15, 1973.~~ Appointees to the commission shall be residents of the county for at least two years immediately preceding appointment, and shall be electors. Terms of office shall be six years, however, the initial members of the commission shall be appointed as follows:

~~The member~~ One of the members appointed by the board of supervisors shall serve for a period of two years~~, the~~ while the other member shall serve for a period of six years and the board shall specify the term of each member so appointed. The member appointed by the county attorney shall serve for a period of four years~~, and the member appointed by the district court judge shall serve for a period of six years~~.

Any member of the commission may be removed by the appointing authority for incompetence, dereliction of duty, malfeasance in office, or for other good cause, however, no member of the commission shall be removed until apprised in writing of the nature of the charges against the member and a hearing on such charges has been held before the board of supervisors. In the event a vacancy occurs in the commission for any reason other than expiration of the term, an appointment to fill the vacancy for the unexpired term shall be made in the same manner as the original appointment.

A majority vote of the membership of the commission shall be sufficient to transact the business of the commission. Not more than two commissioners shall be members of the same political party. Commissioners shall hold no elective or other appointive public office during their terms of appointment to the commission. Commissioners shall serve without compensation but shall be reimbursed for necessary expense and mileage incurred in the actual performance of their duties.

Sec. 4. Section 341A.3, Code 1999, is amended to read as follows:

341A.3 COMBINED CIVIL SERVICE SYSTEM.

Any combination of counties in this state may, by resolution of the boards of supervisors in each county, establish a combined civil service system to serve such counties. The specific terms of the agreement regarding the operation of the combined civil service system, including the appointment of qualified commissioners, and any other matters pertinent to the operation of such system shall be contained in the resolutions adopted by the respective boards of supervisors of the participating counties. Counties participating in a combined civil service system need not be contiguous.

Appointment of commissioners in combined counties shall be by joint meeting of the boards of supervisors~~, district court judges,~~ and county attorneys, respectively. Each group meeting jointly shall appoint one commissioner whose term shall be six years, except that initial terms shall be as provided in section 341A.2.

Sec. 5. Section 450.24, Code 1999, is amended to read as follows:

450.24 APPRAISERS.

In each county, the ~~court~~ chief judge of the judicial district for that county shall, on or before January 15 of each year, appoint three competent residents and freeholders of the county to act as appraisers of the real property within its jurisdiction which is charged or sought to be charged with an inheritance tax. The appraisers shall serve for one year, and until their successors are appointed and qualified. They shall each take an oath to faithfully and impartially perform the duties of the office, but shall not be required to give bond. They shall be subject to removal at any time at the discretion of the ~~court~~ chief judge of the judicial district for that county. The ~~court~~ chief judge may also in ~~it's~~ the chief judge's discretion, either before or after the appointment of the regular appraisers, appoint other appraisers to act in any given case. Vacancies occurring otherwise than by expiration of term shall be filled by appointment of the ~~court~~ chief judge of the judicial district for that county. A person interested in any manner in the estate to be appraised shall not serve as an appraiser of that estate.

Sec. 6. Section 602.1401, subsection 1, Code 1999, is amended to read as follows:

1. The supreme court shall establish, and may amend, a personnel system and a pay and benefits plan for court employees. The personnel system shall include a designation by position title, classification, and function of each position or class of positions within the judicial branch. Reasonable efforts shall be made to accommodate the individual staffing and management practices of the respective clerks of the district court. The personnel system, in the employment of court employees, shall not discriminate on the basis of race, creed, color, sex, national origin, religion, physical disability, or political party preference. The supreme court, in establishing the personnel system, shall implement the comparable worth directives issued by the state court administrator under section 602.1204, subsection 2. The personnel system shall include the prohibitions against sexual harassment of full-time, part-time, and temporary employees set out in section 19B.12, and shall include a grievance procedure for discriminatory harassment. The personnel system shall develop and distribute at the time of hiring or orientation, a guide that describes for employees the applicable sexual harassment prohibitions and grievance, violation, and disposition procedures. This subsection does not supersede the remedies provided under chapter 216.

Sec. 7. Section 602.1401, subsection 4, Code 1999, is amended to read as follows:

4. The supreme court may establish reasonable classes of employees and a pay and benefits plan for the classes of employees as necessary to accomplish the purposes of the personnel system.

Sec. 8. Section 602.1401, subsection 5, Code 1999, is amended to read as follows:

5. The pay and benefits plan shall set the compensation and benefits of court employees within the funds appropriated by the general assembly.

Sec. 9. Section 602.1401, Code 1999, is amended by adding the following new subsection:
NEW SUBSECTION. 6. The benefits plan established by the supreme court may provide for benefits to court employees not covered under a collective bargaining agreement entered into pursuant to chapter 20, notwithstanding any contrary provision of section 70A.1 or 70A.23, consistent with benefits provided to court employees covered under a collective bargaining agreement entered into with the state court administrator pursuant to chapter 20.

Sec. 10. Section 602.6401, subsection 2, unnumbered paragraph 1, Code 1999, is amended to read as follows:
~~During~~ By February of each ~~odd-numbered~~ year in which magistrates' terms expire, the state court administrator shall apportion magistrate offices among the counties in accordance with the following criteria:

Sec. 11. Section 602.6401, subsection 4, Code 1999, is amended to read as follows:
4. ~~During~~ By March of each ~~odd-numbered~~ year in which magistrates' terms expire, the state court administrator shall give notice to the clerks of the district court and to the chief judges of the judicial districts of the number of magistrates to which each county is entitled.

Sec. 12. Section 602.6603, subsection 3, Code 1999, is amended to read as follows:
3. If a ~~district~~ chief judge of a judicial district determines that it is necessary to employ an additional court reporter because of an extraordinary volume of work, or because of the temporary illness or incapacity of a regular court reporter, the ~~district~~ chief judge may appoint a temporary court reporter who shall serve as required by the ~~district~~ chief judge.

Sec. 13. Section 607A.10, Code 1999, is amended to read as follows:
607A.10 APPOINTIVE COMMISSION — MASTER LIST.
In each county, the ~~judges of the district court~~ chief judge of the judicial district in which the county is located shall, on or before March 1 of each odd-numbered year, appoint three competent electors as a jury commission to draw up the master list for the two years beginning the following July 1. The names for the master list shall be taken from the source lists. If all of the source lists are not used to draw up the master list, then the names drawn must be selected in a random manner.

Sec. 14. Section 607A.12, Code 1999, is amended to read as follows:
607A.12 MANNER OF APPOINTMENT.
The appointment shall be in writing signed by ~~three judges~~ the chief judge of the judicial district and shall be filed and made a matter of record in the office of the clerk of the district court.

Sec. 15. Section 607A.14, Code 1999, is amended to read as follows:
607A.14 VACANCY.
If a vacancy occurs in the appointive commission through death, removal or inability of a member of the commission to act, the chief judge ~~or judges~~ of the judicial district shall appoint a person to act during the remainder of the unexpired term.

Sec. 16. Section 607A.16, Code 1999, is amended to read as follows:
607A.16 INSTRUCTIONS TO APPOINTIVE COMMISSION.
The ~~judges of the district court~~ chief judge of the judicial district shall give instructions to appointive jury commissioners at the time of their appointment as to their duties, and shall call their attention to sections 607A.1, 607A.2, 607A.4 and 607A.22.

Sec. 17. Section 633.20, Code Supplement 1999, is amended to read as follows:
633.20 REFEREE — CLERK — ASSOCIATE PROBATE JUDGE.
1. The ~~court~~ chief judge of the judicial district may appoint a referee in probate for the auditing of the accounts of fiduciaries and for the performance of other ministerial duties the ~~court~~ chief judge prescribes. A person shall not be appointed as referee in a matter where the person is acting as a fiduciary or as the attorney.

2. The ~~court~~ chief judge of the judicial district may appoint the clerk as referee in probate. In such cases, the fees received by the clerk for serving in the capacity of referee are fees of the office of the clerk of court and shall be deposited in the account established under section 602.8108.

3. A person appointed as an associate probate judge shall have jurisdiction to audit accounts of fiduciaries and to perform ministerial duties and judicial functions as the court prescribes.

Sec. 18. Section 905.3, subsection 1, paragraph c, Code 1999, is amended to read as follows:

c. A number of members equal to the number of authorized board members from project advisory committees or equal to the number of citizen members shall be appointed by the ~~judges~~ chief judge of the judicial district no later than January 15 of each year.

Sec. 19. LEGISLATIVE STUDY — MENTAL HEALTH ADVOCATES. The legislative council of the Iowa general assembly is requested to establish a legislative interim study committee during the 2000 interim to review issues related to the statutory requirements for appointing, and compensating, mental health advocates appointed pursuant to Code section 229.19. The legislative interim study committee should issue a report to the general assembly by January 1, 2001, concerning its findings and any recommendations.

Approved April 6, 2000

CHAPTER 1058

NONSUBSTANTIVE CODE CORRECTIONS

H.F. 2136

AN ACT relating to nonsubstantive Code corrections.

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

DIVISION I
MISCELLANEOUS PROVISIONS

Section 1. Section 6B.59, Code Supplement 1999, is amended to read as follows:

6B.59 SALE OF ACQUIRED PROPERTY — REIMBURSEMENT TO LANDOWNER.

If an acquiring agency acquires property by condemnation, or by otherwise exercising the power of eminent domain, and that property is later sold by the acquiring agency for more than the acquisition price paid to the landowner, the acquiring agency shall pay to the landowner from whom the property was acquired the difference between the price at which it was acquired and the price at which it was sold by the acquiring agency less the cost of any improvements made to or benefiting the land by the acquiring agency. This section does not apply to property acquired by the ~~Iowa~~ state department of transportation.

Sec. 2. Section 7E.5, subsection 1, paragraph v, Code 1999, is amended to read as follows:

v. The department for the blind, created in ~~section 216B.2~~ chapter 216B, which has primary responsibility for services relating to blind persons.

Sec. 3. Section 12.31, Code 1999, is amended to read as follows:

12.31 SHORT TITLE.

This ~~division~~ section and sections 12.32 through 12.43 shall be known as the "Linked Investments for Tomorrow Act".

Sec. 4. Section 12.32, unnumbered paragraph 1, Code Supplement 1999, is amended to read as follows:

As used in ~~this division~~ section 12.31, this section, and sections 12.33 through 12.43, unless the context otherwise requires:

Sec. 5. Section 12.32, subsection 4, Code Supplement 1999, is amended to read as follows:

4. "Qualified linked investment" means a linked investment in which a certificate of deposit is placed by the treasurer of state with an eligible lending institution under the traditional livestock producers linked investment loan program established under section 12.43A.

Sec. 6. Section 15E.208, subsection 4, paragraph b, Code Supplement 1999, is amended to read as follows:

b. An agricultural products processor, if the processor or a person owning a controlling interest in the processor has demonstrated, within the most recent consecutive three-year period prior to the application for financing, a continuous and flagrant disregard for the health and safety of its employees or the quality of the environment. Violations of environmental protection statutes, rules, or regulations shall be reported for the most recent five-year period prior to application. Evidence of such disregard shall include a history of serious or uncorrected violations of state or federal law protecting occupational health and safety or the environment, including but not limited to serious or uncorrected violations of occupational safety and health standards enforced by the division of labor services of the department of ~~employment services~~ workforce development pursuant to chapter 84A, or rules enforced by the environmental protection division of the department of natural resources pursuant to chapter 455B.

Sec. 7. Section 35A.1, subsection 4, Code 1999, is amended to read as follows:

4. "Director" means the executive director appointed pursuant to section ~~35A.3, subsection 3~~ 35A.8.

Sec. 8. Section 50.16, Code 1999, 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, 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:

At an election at ..... in ..... township, or in ..... precinct of ..... city or township, in ..... county, state of Iowa, on the ..... day of ..... A.D. ....., there were ..... ballots cast for the office of ..... of which

~~A~~ (Candidate's name) ..... ~~B~~ ..... had ..... votes.
~~C~~ (Candidate's name) ..... ~~D~~ ..... had ..... votes.
(and in the same manner for any other officer).

A true tally list:

~~L~~ (Election board member's name) ..... ~~M~~ ..... Election Board
~~N~~ (Election board member's name) ..... ~~O~~ ..... Members.
~~P~~ (Election board member's name) ..... ~~Q~~ .....

Attest:

~~R~~ (Tally Keeper's Name) ..... ~~S~~ ..... Designated
~~T~~ (Tally Keeper's Name) ..... ~~U~~ ..... Tally Keepers.

Sec. 9. Section 50.29, Code 1999, is amended to read as follows:

50.29 CERTIFICATE OF ELECTION.

When any person is thus declared elected, there shall be delivered to that person a certificate of election, under the official seal of the county, in substance as follows:

STATE OF IOWA)
..... County.)

At an election held in said county on the ..... day of ....., A.D. ..... ~~A..... B~~ ..... (candidate's name) was elected to the office of ..... for the term of ..... years from the ..... day of ....., A.D. ..... (or if elected to fill a vacancy, for the residue of the term ending on the ..... day of ....., A.D. .....), and until a successor is elected and qualified.

~~C..... D~~ .....,
President of Board of Canvassers.

Witness, ~~E..... F~~ .....,
County Commissioner of Elections
(clerk).

Such certificate is presumptive evidence of the person's election and qualification.

Sec. 10. Section 50.41, Code 1999, is amended to read as follows:

50.41 CERTIFICATE OF ELECTION.

Each person declared elected by the state board of canvassers shall receive a certificate, signed by the governor, or, in the governor's absence, by the secretary of state, with the seal of state affixed, attested by the other canvassers, to be in substance as follows:

STATE OF IOWA:

To ~~A..... B~~ ..... (candidate's name): It is hereby certified that, at an election held on the ..... day of ..... you were elected to the office of ..... of Iowa, for the term of ..... years, from the ..... day of ..... (or if to fill a vacancy, for the residue of the term, ending on the ..... day of .....).

Given at the seat of government this ..... day of .....

If the governor is absent, the certificate of the election of the secretary of state shall be signed by the auditor. The certificate to members of the legislature shall describe, by the number, the district from which the member is elected.

Sec. 11. Section 62.11, Code 1999, is amended to read as follows:

62.11 SUBPOENAS.

Subpoenas for witnesses may be issued at any time after the notice of trial is served, either by the county treasurer or by the county auditor, and shall command the witnesses to appear at ....., on ....., to testify in relation to a contested election, wherein ~~A..... B~~ ..... (Insert contestant's name) is contestant and ~~C..... D~~ ..... (Insert incumbent's name) is incumbent.

Sec. 12. Section 86.17, subsection 1, Code Supplement 1999, is amended to read as follows:

1. Notwithstanding the provisions of section 17A.11, the ~~industrial~~ workers' compensation commissioner or a deputy ~~industrial~~ workers' compensation commissioner shall preside over any contested case proceeding brought under this chapter, chapter 85, 85A, or 85B in the manner provided by chapter 17A. The deputy commissioner or the commissioner may make such inquiries in contested case proceedings as shall be deemed necessary, so long as such inquiries do not violate any of the provisions of section 17A.17.

Sec. 13. Section 124.401F, subsection 2, paragraph b, Code Supplement 1999, is amended to read as follows:

b. Possesses or transports anhydrous ammonia in a container or receptacle which is not authorized to hold anhydrous ammonia according to rules adopted by the secretary of agriculture.

Sec. 14. Section 135.11, subsection 18, Code Supplement 1999, is amended to read as follows:

18. Consult with the office of statewide clinical education programs at the university of Iowa college of medicine and annually submit a report to the general assembly by January 15 verifying the number of physicians in active practice in Iowa by county who are engaged in providing obstetrical care. To the extent data are readily available, the report shall include information concerning the number of deliveries per year by specialty and county,

the age of physicians performing deliveries, and the number of current year graduates of the university of Iowa college of medicine and the ~~university of osteopathic medicine and health sciences~~ Des Moines university — osteopathic medical center entering into residency programs in obstetrics, gynecology, and family practice. The report may include additional data relating to access to obstetrical services that may be available.

Sec. 15. Section 135.22A, subsection 1, paragraph a, Code Supplement 1999, is amended to read as follows:

a. "Brain injury" means ~~an~~ a brain injury ~~to the brain~~ as defined in section 135.22.

Sec. 16. Section 135.107, subsection 3, paragraph d, subparagraph (1), Code 1999, is amended to read as follows:

(1) The Iowa department of public health, in cooperation with a primary care collaborative effort including the university of Iowa college of medicine, the ~~university of osteopathic medicine and health sciences~~ Des Moines university — osteopathic medical center, and other primary care professional educational institutions in Iowa, shall develop and establish area health education centers. The effort shall involve making application for a federal grant under 42 U.S.C. § 293j, as prescribed by that section.

Sec. 17. Section 135.107, subsection 4, Code 1999, is amended to read as follows:

4. The director of public health shall establish a primary care collaborative work group to coordinate all statewide recruitment and retention activities established pursuant to this section and to make recommendations to the department and the center for rural health and primary care relating to the implementation of subsection 3. Membership of the work group shall consist, at a minimum, of representatives from the university of Iowa college of medicine, ~~university of osteopathic medicine and health sciences~~ Des Moines university — osteopathic medical center, university of Iowa physician assistant school, university of Iowa nurse practitioner school, ~~university of osteopathic medicine and health sciences~~ Des Moines university — osteopathic medical center physician assistant program, Iowa-Nebraska primary care association, Iowa medical society, Iowa osteopathic medical association, Iowa chapter of American college of osteopathic family physicians, Iowa academy of family physicians, nurse practitioner association, Iowa nurses association, association of Iowa hospitals and health systems, and Iowa physicians assistants association.

Sec. 18. Section 139B.1, subsection 1, paragraph a, Code Supplement 1999, is amended to read as follows:

a. "Contagious or infectious disease" means hepatitis in any form, meningococcal disease, tuberculosis, and any other disease with the exception of AIDS or HIV infection as defined in section 141A.1, determined to be life-threatening to a person exposed to the disease as established by rules adopted by the department based upon a determination by the state epidemiologist and in accordance with guidelines of the centers for disease control and prevention ~~and control~~ of the United States department of health and human services.

Sec. 19. Section 161B.1, subsection 2, paragraph f, Code 1999, is amended to read as follows:

f. State university of Iowa department of ~~preventative~~ preventive medicine and environmental health.

Sec. 20. Section 163A.1, subsection 9, paragraph b, unnumbered paragraphs 1 and 3, Code 1999, are amended to read as follows:

A herd which has been tested pursuant to a test approved by rule of the Iowa department of agriculture and land stewardship pursuant to chapter 17A, which test is in compliance with the recommended uniform methods and rules of the animal and plant health inspection service of the United States department of agriculture.

If the Iowa department of agriculture and land stewardship adopts a rule under paragraph "b" of this subsection and the recommended uniform methods and rules of the animal and

plant health inspection service of the United States department of agriculture are subsequently changed, the Iowa department of agriculture and land stewardship shall not change its rule if the effect would be to make less restrictive the standards or procedures for validating a brucellosis-free herd.

Sec. 21. Section 166.42, unnumbered paragraph 1, Code Supplement 1999, is amended to read as follows:

The secretary may establish a reserve supply of biological products of approved modified live virus hog-cholera vaccine and of anti-hog-cholera serum or its equivalent in antibody concentrate to be used as directed by the secretary in the event of an emergency resulting from a hog-cholera outbreak. Vaccine and serum or antibody concentrate from the reserve supply, if used for such an emergency, shall be made available to swine producers at a price which will not result in a profit. Payment shall be made by the producer to the department and such vaccine shall be administered by a licensed practicing veterinarian. The secretary may cooperate with other states in the accumulation, maintenance and disbursement of such reserve supply of biological products. The secretary, with the advice and written consent of the state veterinarian, and the advice and written consent of the veterinarian-in-charge for Iowa of the animal~~,~~ and plant~~, and~~ health inspection service – veterinary services, United States department of agriculture, shall determine when an emergency resulting from a hog-cholera outbreak exists.

Sec. 22. Section 184A.1A, subsection 4, Code Supplement 1999, is amended to read as follows:

4. Within thirty days after approval at the referendum to establish a council and to impose an assessment, the department shall organize the council as provided in section 184A.1B.

Sec. 23. Section 229A.5A, subsection 1, Code Supplement 1999, is amended to read as follows:

1. The prosecuting attorney or attorney general is authorized upon the occurrence of a recent overt act, or upon receiving written notice pursuant to section 229A.3, or before the filing of a petition under this chapter, to subpoena and compel the attendance of witnesses, examine the witnesses under oath, and require the production of documentary evidence for inspection, reproduction, or copying. Except as otherwise provided by this section, the prosecuting attorney or attorney general shall have the same powers and limitations, subject to judicial oversight and enforcement, as provided by this chapter and by the Iowa rules of civil procedure. Any person compelled to appear under a demand for oral testimony under this section may be accompanied, represented, and advised by counsel at ~~their~~ the person's own expense.

Sec. 24. Section 229A.7, subsection 5, Code Supplement 1999, is amended to read as follows:

5. If the court or jury is not satisfied beyond a reasonable doubt that the respondent is a sexually violent predator, the court shall direct the respondent's release. Upon a mistrial, the court shall direct that the respondent be held at an appropriate secure facility until another trial is conducted. Any subsequent trial following a mistrial shall be held within ninety days of the previous trial, unless such subsequent trial is continued as provided in subsection ~~1~~ 2.

Sec. 25. Section 235C.3, subsection 2, paragraph b, Code Supplement 1999, is amended to read as follows:

b. A health professional training campaign, including recommendations concerning the curriculum offered at the college of medicine at the state university of Iowa and ~~the university of osteopathic medicine and health sciences~~ Des Moines university — osteopathic medical center, providing assistance in the identification of women at risk of substance abuse during pregnancy and strategies to be employed in assisting those women to maintain healthy lifestyles during pregnancy. This education campaign shall offer information to health professionals on assessment, laboratory testing, and referrals.

Sec. 26. Section 237A.23, subsection 1, Code Supplement 1999, is amended to read as follows:

1. The departments of education, public health, and human services shall jointly establish a leadership council for child care training and development in this state. In addition to representatives of the three departments, the leadership council shall include but is not limited to representatives of community colleges, institutions of higher learning under the state board of regents and private institutions of higher education, the Iowa cooperative extension service in agriculture and home economics, and child care resource and referral service agencies.

Sec. 27. Section 255.26, unnumbered paragraph 1, Code 1999, is amended to read as follows:

Warrants issued under section 255.25 shall be promptly drawn on the treasurer of state and forwarded by the director of revenue and finance to the treasurer of the state university, and the same shall be by the treasurer of the state university placed to the credit of the funds which are set aside for the support of the university hospital. ~~However, warrants shall not be paid unless the UB-82 claim required pursuant to section 255A.13 has been filed with the community health management information system.~~ The superintendent of the university hospital shall certify to the auditor of state on the first day of January, April, July, and October of each year, the amount as herein provided not previously certified by the superintendent due the state from the several counties having patients chargeable thereto, and the auditor of state shall thereupon charge the same to the county so owing. A duplicate certificate shall also be mailed to the auditor of each county having patients chargeable thereto. Expenses for obstetrical patients served under section 255A.9 shall be reimbursed as specified in section 255A.9.

Sec. 28. Section 255A.13, Code 1999, is amended to read as follows:

255A.13 DATA COLLECTION.

~~Beginning July 1, 1987, the~~ The university of Iowa hospitals and clinics shall submit, on a quarterly basis, ~~UB-82~~ UB-92 claims for all patients discharged after being served under the indigent patient program under chapter 255. ~~The UB-82 claim shall include all data elements which are required by the community health management information system.~~

Sec. 29. Section 257.46, subsection 2, Code Supplement 1999, is amended to read as follows:

2. The remaining portion of the budget shall be funded by the thirty-eight dollar increase in allowable growth for the school budget year beginning July 1, 1999, increased by the growth of the regular program district cost each year. School districts shall annually report the amount expended for a gifted and talented program to the department of education. The proportion of a school district's budget which corresponds to the thirty-eight dollar increase in allowable growth for the school budget year beginning July 1, 1999, added to the amount in subsection 1, shall be utilized exclusively for a school district's gifted and talented ~~and gifted~~ program.

Sec. 30. Section 261.19, Code 1999, is amended to read as follows:

261.19 OSTEOPATHIC PHYSICIAN RECRUITMENT PROGRAM.

1. A physician recruitment program is established, to be administered by the college student aid commission, for ~~the university of osteopathic medicine and health sciences of Des Moines, Iowa~~ Des Moines university — osteopathic medical center. The program shall consist of a forgivable loan program and a tuition scholarship program for students and a loan repayment program for physicians. The commission shall regularly adjust the physician service requirement under each aspect of the program to provide, to the extent possible, an equal financial benefit for each period of service required. From funds appropriated for purposes of the program by the general assembly, the commission shall pay a fee to ~~the university of osteopathic medicine and health sciences~~ Des Moines university — osteopathic medical center for the administration of the program. A portion of the fee shall be paid by the commission to the university based upon the number of physicians recruited under subsection 4.

2. A forgivable loan may be awarded to a resident of Iowa who is enrolled at ~~the university of osteopathic medicine and health sciences~~ Des Moines university — osteopathic medical center if the student agrees to practice in this state for a period of time to be determined by the commission at the time the loan is awarded. Forgivable loans to eligible students shall not become due and interest on the loan shall not accrue until after the student completes a residency program. If the student completes the period of practice established by the commission and agreed to by the student, the loan amount shall be forgiven. The loan amount shall not be forgiven if the osteopathic physician fails to complete the required time period of practice in this state or fails to satisfactorily continue in the university's program of medical education.

3. A student enrolled at ~~the university of osteopathic medicine and health sciences~~ Des Moines university — osteopathic medical center shall be eligible for a tuition scholarship for the student's study at the university. The scholarship shall be for an amount not to exceed the annual tuition at the university. A student who receives a tuition scholarship shall not be eligible for the loan repayment program provided for by this section. A student who receives a tuition scholarship shall agree to practice in an eligible rural community in this state for a period of time to be determined by the commission at the time the scholarship is awarded. The student shall repay the scholarship to the commission if the student fails to practice in a medically underserved rural community in this state for the required period of time.

4. A physician shall be eligible for the physician loan repayment program if the physician agrees to practice in an eligible rural community in this state. ~~The university of osteopathic medicine and health sciences~~ Des Moines university — osteopathic medical center shall recruit and place physicians in rural communities which have agreed to provide additional funds for the physician's loan repayment. The contract for the loan repayment shall stipulate the time period the physician shall practice in an eligible rural community in this state. In addition, the contract shall stipulate that the physician repay any funds paid on the physician's loan by the commission if the physician fails to practice in an eligible rural community in this state for the required period of time. For purposes of this subsection, "eligible rural community" means a medically underserved rural community which agrees to match state funds provided on at least a dollar-for-dollar basis for the loan repayment of a physician who practices in the community.

5. The commission shall adopt rules pursuant to chapter 17A to administer this section.

Sec. 31. Section 263.17, subsection 2, paragraph a, subparagraph (1), Code 1999, is amended to read as follows:

(1) The state university of Iowa department of ~~preventative~~ preventive medicine and environmental health.

Sec. 32. Section 279.51, subsection 2, paragraph b, subparagraph (1), Code Supplement 1999, is amended to read as follows:

(1) To school districts to establish programs for ~~three-year-~~ three-year-old, ~~four-year-~~ four-year-old, and five-year-old at-risk children which are a combination of preschool and full-day kindergarten.

Sec. 33. Section 359A.18, subsection 5, Code 1999, is amended to read as follows:

5. A fence consisting of four parallel, coated steel, smooth high-tensile wire which meets requirements adopted by the American society ~~of~~ for testing and materials, including but not limited to requirements relating to the grade, tensile strength, elongation, dimensions, and tolerances of the wire. The wire must be firmly fastened to plastic, metal, or wooden posts securely planted in the earth. The posts shall not be more than two rods apart. The top wire shall be at least forty inches in height.

Sec. 34. Section 422.45, subsections 38A and 38B, Code Supplement 1999, are amended to read as follows:

38A. The gross receipts from the sale or rental of aircraft; the sale or rental of tangible personal property permanently affixed or attached as a component part of the aircraft, including but not limited to repair or replacement materials or parts; and the gross receipts of all services used for aircraft repair, remodeling, and maintenance services when such services are performed on aircraft, aircraft engines, or aircraft component materials or parts. For the purposes of this exemption, "aircraft" means aircraft used in a scheduled interstate federal aviation ~~administration certified~~ administration certificated air carrier operation.

38B. The gross receipts from the sale or rental of tangible personal property permanently affixed or attached as a component part of the aircraft, including but not limited to repair or replacement materials or parts; and the gross receipts of all services used for aircraft repair, remodeling, and maintenance services when such services are performed on aircraft, aircraft engines, or aircraft component materials or parts. For the purposes of this exemption, "aircraft" means aircraft used in a nonscheduled interstate federal aviation ~~administration certified~~ administration certificated air carrier operation operating under 14 C.F.R. ch. 1, pt. 135.

Sec. 35. Section 422.121, Code Supplement 1999, is amended to read as follows:

422.121 APPROPRIATION — LIMITATION.

Beginning with the fiscal year beginning July 1, 1997, there is appropriated annually from the general fund of the state two million dollars to refund the credits allowed under this division. Notwithstanding section 422.120, for tax years beginning on or after January 1, 1997, the livestock production tax credit shall only be allowed for cow-calf operations. In calculating the tax credit for cow-calf operations for tax years beginning in the 1997 calendar year, mature beef cows bred or for breeding, bred yearling heifers, and breeding bulls in the operations' inventory on December 31 of the tax year which were also in the ~~operations~~ operations' inventory on July 1 of the tax year and stockers and feeders sold during the tax year may be counted. In calculating the tax credit for cow-calf operations for tax years beginning on or after January 1, 1998, only those bred cows, bred heifers, and breeding bulls in the operations' inventory on December 31 of the tax year which were also in the ~~operations~~ operations' inventory on July 1 of the tax year may be counted.

Sec. 36. Section 422B.1, subsection 6, paragraph b, Code Supplement 1999, 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 by sending a copy of the abstract of the ~~ballot~~ votes from the favorable election to the director of revenue and finance or, in the case of a local vehicle tax, to the director of the department of transportation, of the result of the election.

Sec. 37. Section 422E.2, subsection 4, paragraph b, unnumbered paragraph 1, Code Supplement 1999, is amended to read as follows:

Within ten days of the election at which a majority of those voting on the question favors the imposition, repeal, or change in the rate of the tax, the county auditor shall give written notice by sending a copy of the abstract of ~~ballot~~ the votes from the favorable election to the director of revenue and finance of the result of the election. 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 and the total number of registered voters in all of the school districts within the county.

Sec. 38. Section 423.4, subsections 18 and 19, Code Supplement 1999, are amended to read as follows:

18. Aircraft; tangible personal property permanently affixed or attached as a component part of the aircraft, including but not limited to repair or replacement materials or parts; and all services used for aircraft repair, remodeling, and maintenance services when such

services are performed on aircraft, aircraft engines, or aircraft component materials or parts. For the purposes of this exemption, "aircraft" means aircraft used in a scheduled interstate federal aviation administration ~~certified~~ certificated air carrier operation.

19. Tangible personal property permanently affixed or attached as a component part of the aircraft, including but not limited to repair or replacement materials or parts; and all services used for aircraft repair, remodeling, and maintenance services when such services are performed on aircraft, aircraft engines, or aircraft component materials or parts. For the purposes of this exemption, "aircraft" means aircraft used in a nonscheduled interstate federal aviation administration ~~certified~~ certificated air carrier operation operating under 14 C.F.R. ch. 1, pt. 135.

Sec. 39. Section 427.1, subsection 14, unnumbered paragraph 2, Code Supplement 1999, is amended to read as follows:

The assessor, in arriving at the valuation of any property of the society or organization, shall take into consideration any uses of the property not for the appropriate objects of the organization and shall assess in the same manner as other property, all or any portion of the property involved which is leased or rented and is used regularly for commercial purposes for a profit to a party or individual. If a portion of the property is used regularly for commercial purposes an exemption shall not be allowed upon property so used and the exemption granted shall be in the proportion of the value of the property used solely for the appropriate objects of the organization, to the entire value of the property. However, the board of trustees or the board of directors of a hospital, as defined in section 135B.1, ~~subsection 1,~~ may permit use of a portion of the hospital for commercial purposes, and the hospital is entitled to full exemption for that portion used for nonprofit health-related purposes, upon compliance with the filing requirements of this subsection.

Sec. 40. Section 427B.4, unnumbered paragraph 1, Code 1999, is amended to read as follows:

An application shall be filed for each project resulting in actual value added for which an exemption is claimed. The application for exemption shall be filed by the owner of the property with the local assessor by February 1 of the assessment year in which the value added is first assessed for taxation. Applications for exemption shall be made on forms prescribed by the director of revenue and finance and shall contain information pertaining to the nature of the improvement, its cost, and other information deemed necessary by the director of revenue and finance.

Sec. 41. Section 448.2, Code 1999, is amended to read as follows:

448.2 FORM.

Deeds executed by the county treasurer shall be substantially in the following form:

KNOW ALL PERSONS BY THESE PRESENTS, that the following described parcel: (Here follows the description), situated in the county of ..... and state of Iowa, was subject to taxes for the year (or years) A.D. ....., and the taxes on the parcel for the year (or years) stated remained due and unpaid at the date of the sale; and the treasurer of the county, on the ..... day of ....., A.D. ....., by virtue of the authority vested by law in the treasurer, at (an adjournment of) the sale begun and publicly held on the third Monday of June, A.D. ....., exposed to public sale at the office of the county treasurer in the county named, in substantial conformity with all the requirements of the statute, the parcel described, for the payment of the total amount then due and remaining unpaid on the parcel, and at that time and place ~~A ..... B~~ ....., of the county of ..... and state of ....., offered to pay the sum of ..... dollars and ..... cents, being the total amount then due and remaining unpaid on the parcel, for (here follows the description of the parcel sold) which was the least quantity bid for, and payment of that sum was made by that person to the treasurer, the parcel was stricken off to that person at that price; and ~~A ..... B~~ ..... did, on the ..... day of ....., A.D. ....., assign the certificate of the sale of the parcel and all right, title, and interest to the parcel to ~~E ..... F~~..... of the county of ..... and state of .....; and by the affidavit of ....., filed in the treasurer's office on the ..... day of .....,

A.D. ....., it appears that notice has been given more than ninety days before the execution of this deed to ..... and ..... of the expiration of the time of redemption allowed by law; and two years have elapsed since the date of the sale, and the parcel has not been redeemed:

Now, I, ~~C ..... D~~ ....., treasurer of the county, for the consideration of the stated sum paid to the treasurer and by virtue of law, have granted, bargained, and sold, and by these presents do grant, bargain, and sell to ~~A ..... B~~ ..... (or ~~E ..... F~~ .....), and that person's heirs and assigns, the parcel described, to have and to hold unto that person (or ~~E ..... F~~ .....), and that person's heirs and assigns, forever; subject, however, to all the rights of redemption provided by law. In witness whereof, I, ~~C ..... D~~ ....., treasurer of ..... county, by virtue of the authority vested in me, have subscribed my name on this ..... day of ....., A.D. .....

.....
Treasurer

State of Iowa,)
.....County.) ss.

I certify that before me, ..., in and for said county, personally appeared the above named ~~C ..... D~~ ....., treasurer of the county, personally known to me to be the treasurer of the county at the date of the execution of the above conveyance, and to be the identical person whose name is affixed to and who executed the above conveyance as treasurer of the county, and acknowledged the execution of the conveyance to be the treasurer's voluntary act and deed as treasurer of the county, for the purposes expressed in the conveyance.

Given under my hand (and seal) this ..... day of ....., A.D. .....

Sec. 42. Section 453C.1, subsection 9, paragraph a, Code Supplement 1999, is amended to read as follows:

a. Manufactures cigarettes anywhere that such manufacturer intends to be sold in the United States, including cigarettes intended to be sold in the United States through an importer, except where such importer is an original participating manufacturer, as that term is defined in the master settlement agreement, that will be responsible for the payments under the master settlement agreement with respect to such cigarettes as a result of the provisions of ~~the~~ subsection II(mm) of the master settlement agreement and that pays the taxes specified in subsection II(z) of the master settlement agreement and provided that the manufacturer of such cigarettes does not market or advertise such cigarettes in the United States.

Sec. 43. Section 455B.173, subsection 8, Code Supplement 1999, is amended to read as follows:

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

Sec. 44. Section 455B.474, subsection 1, paragraph d, subparagraph (2), subparagraph subdivision (d), Code Supplement 1999, is amended to read as follows:

(d) For purposes of classifying a site as either low risk or no action required, the department shall rely upon the example tier one risk-based screening level look-up table of the American society for testing ~~of~~ and materials' emergency standard, ES38-94, or other look-up table as determined by the department by rule.

Sec. 45. Section 455B.474, subsection 1, paragraph f, subparagraph (4), subparagraph subdivision (e), Code Supplement 1999, is amended to read as follows:

(e) Risk-based corrective action assessment principles which identify the risks presented to the public health and safety or the environment by each release in a manner that will protect the public health and safety or the environment using a tiered procedure consistent with the American society for testing ~~of~~ and materials' emergency standard, ES38-94.

Sec. 46. Section 514.7, unnumbered paragraph 1, Code Supplement 1999, is amended to read as follows:

The contracts by any such corporation with the subscribers for health care service shall at all times be subject to the approval of the commissioner of insurance. The ~~commission~~ commissioner shall require that participating pharmacies be reimbursed by the pharmaceutical service corporation at rates or prices equal to rates or prices charged nonsubscribers, unless the commissioner determines otherwise to prevent loss to subscribers.

Sec. 47. Section 514E.1, subsection 12, Code 1999, is amended to read as follows:

12. "Health care facility" means a health care facility as defined in section 135C.1, ~~subsection 6,~~ a hospital as defined in section 135B.1, ~~subsection 1,~~ or a community mental health center established under chapter 230A.

Sec. 48. Section 522A.3, subsection 5, paragraph d, Code Supplement 1999, is amended to read as follows:

d. A fee, compensation, or commission is not paid to an employee by a rental company dependent ~~based~~ solely on the sale of insurance under any limited license issued pursuant to this section.

Sec. 49. Section 554.12105, subsections 2 and 3, Code 1999, are amended to read as follows:

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

"Acceptance"	Section 554.12209
"Beneficiary"	Section 554.12103
"Beneficiary's bank"	Section 554.12103
"Executed"	Section 554.12301
"Execution date"	Section 554.12301
"Funds transfer"	Section 554.12104
"Funds-transfer system rule"	Section 554.12501
"Governing law"	Section 554.12507
"Intermediary bank"	Section 554.12104
"Originator"	Section 554.12104
"Originator's bank"	Section 554.12104
"Payment by beneficiary's bank to beneficiary"	Section 554.12405
"Payment by originator to beneficiary"	Section 554.12406
"Payment by sender to receiving bank"	Section 554.12403
"Payment date"	Section 554.12401
"Payment order"	Section 554.12103

"Receiving bank"	Section 554.12103
"Security procedure"	Section 554.12201
"Sender"	Section 554.12103

3. The following definitions in article 4 apply to this article:

"Clearing house"	Section 554.4104
"Item"	Section 554.4104
"Suspends payments"	Section 554.4104

Sec. 50. Section 598B.208, subsection 3, Code Supplement 1999, is amended to read as follows:

3. If a court dismisses a petition or stays a proceeding because it declines to exercise its jurisdiction pursuant to subsection 1, it shall assess against the party seeking to invoke its jurisdiction necessary and reasonable expenses including costs, communication expenses, attorney fees, investigative fees, expenses for witnesses, travel expenses, and child care expenses during the course of the proceedings, unless the party from whom fees are sought establishes that the assessment would be clearly inappropriate. The court shall not assess fees, costs, or expenses against this state unless authorized by law other than this chapter.

Sec. 51. Section 598B.312, subsection 1, Code Supplement 1999, is amended to read as follows:

1. The court shall award the prevailing party, including a state, necessary and reasonable expenses incurred by or on behalf of the party, including costs, communication expenses, attorney fees, investigative fees, expenses for witnesses, travel expenses, and child care expenses during the course of the proceedings, unless the party from whom fees or expenses are sought establishes that the award would be clearly inappropriate.

Sec. 52. Section 637.202, subsection 2, paragraph b, Code Supplement 1999, is amended to read as follows:

b. The beneficiary's fractional interest in the undistributed principal assets must be calculated without regard to property specifically given to a beneficiary and property required to ~~be~~ pay pecuniary amounts not in trust.

Sec. 53. Section 663.8, Code 1999, is amended to read as follows:

663.8 FORM OF WRIT.

If the petition is in accordance with the foregoing requirements, and states sufficient grounds for the allowance of the writ, it shall issue, and may be substantially as follows:

The State of Iowa,

To ~~A..... B~~.....:

You are hereby commanded to have the body of ~~C..... D~~....., by you unlawfully detained, as is alleged, before the court (or before me, or before ~~E..... F~~....., judge, etc., as the case may be), at ....., on ..... (or immediately after being served with this writ), to be dealt with according to law, and have you then and there this writ, with a return thereon of your doings in the premises.

Sec. 54. Section 692A.13, subsection 3, paragraph c, subparagraphs (1) and (2), Code Supplement 1999, are amended to read as follows:

(1) Persons who commit a criminal offense against a minor, an aggravated offense, sexual exploitation, a sexually violent offense, or an other relevant offense on or after the effective date of this Act and who have been assessed to be ~~a~~ "moderate-risk" or "high-risk".

(2) Persons who committed an offense prior to July 1, 1999, and who have been assessed to be ~~a~~ "moderate-risk" or "high-risk" and whose opportunity to request a hearing regarding the assessment of risk has lapsed.

Sec. 55. 1999 Iowa Acts, chapter 112, section 9, is amended by striking the amending phrase to the section and inserting in lieu thereof the following: "Section 692A.5, subsection 1, Code 1999, is amended by adding the following new paragraph:"

DIVISION II
CENTURY DATE CHANGE

Sec. 56. Sections 6B.9, 28A.6, 52.21, 85.24, 96.14, 441.26, 448.15, 458A.22, 461B.5, 468.371, 468.553, 515.138, 558.26, 558.39, 558.57, 558.58, 558.66, 617.3, 633.279, 633.295, and 656.2, Code 1999, are amended by striking "day of ___, 19_," and inserting in lieu thereof "day of ___ (month), ____ (year),".

Sec. 57. Section 43.26, Code 1999, is amended by striking "June, 19___" and inserting in lieu thereof "June, ____ (year)".

Sec. 58. Section 46.9, Code 1999, is amended by striking "January 31, 19___" and inserting in lieu thereof "January 31, ____ (year)".

Sec. 59. Sections 52.9 and 52.38, Code 1999, are amended by striking "election of ___, 19___" and inserting in lieu thereof "election of _____ (date)".

Sec. 60. Sections 52.9 and 52.38, Code 1999, are amended by striking "Dated ___ 19___" and inserting in lieu thereof "Dated ____".

Sec. 61. Section 52.21, Code 1999, is amended by striking

"VOTING MACHINE RETURN AND TALLY SHEET
____ ELECTION ___ 19___, COUNTY OF _____"

and inserting in lieu thereof

"VOTING MACHINE RETURN AND TALLY SHEET
___ ELECTION ___ (DATE), COUNTY OF _____".

Sec. 62. Section 384.50, Code 1999, is amended to read as follows:

384.50 NOTICE OF HEARING.

The clerk shall publish notice of the date, time, and place of the hearing once each week for two consecutive weeks in the manner provided by section 362.3, the first publication of which shall be not less than ten days before the date of the hearing. The notice must be in substantially the following form:

NOTICE TO PROPERTY OWNERS

Notice is given that there is now on file for public inspection in the office of the clerk of ....., Iowa, a proposed resolution of necessity, an estimate of cost, and a plat and schedule showing the amounts proposed to be assessed against each lot and the valuation of each lot within a district approved by the council of ....., Iowa, for a ..... improvement of the type(s) and in the location(s) as follows:

The council will meet at ..... o'clock .....m., on .....~~, 19.....~~ (date), at the ....., at which time the owners of property subject to assessment for the proposed improvement or any other person having an interest in the matter may appear and be heard for or against the making of the improvement, the boundaries of the district, the cost, the assessment against any lot, or the final adoption of a resolution of necessity. A property owner will be deemed to have waived all objections unless at the time of hearing the property owner has filed objections with the clerk.

.....
Clerk.

Not less than fifteen days before the hearing, the clerk shall send a copy of the notice by mail to each property owner whose property is subject to assessment for the improvement at the address as shown by the records of the county auditor. If a property is shown to be in the name of more than one owner at the same mailing address, a single notice may be mailed addressed to all owners at that address. Failure to receive a mailed notice is not a defense to the special assessment.

Sec. 63. Sections 468.511, 558.25, and 558.39, Code 1999, are amended by striking "day of ____, A.D. 19__" and inserting in lieu thereof "day of ____ (month), ____ (year)".

Sec. 64. Section 602.6504, Code 1999, is amended by striking "December 31, 19__" and inserting in lieu thereof "December 31, ____ (year)".

Sec. 65. Section 614.14, subsection 2, Code Supplement 1999, is amended to read as follows:

2. A bona fide purchaser is a purchaser for value in good faith and without notice of any adverse claim, who has relied on a current, recorded affidavit in substantially the following form delivered to the purchaser:

[Individual trustee] Affidavit in re [insert legal description]

I, ..., being first duly sworn and under oath state of my personal knowledge that:

1. I am the trustee under the trust dated ....., ~~19.....~~ to which the above-described real estate was conveyed to the trustee by ....., pursuant to an instrument recorded the ..... day of ..... (month), ~~19~~.....(year), recorded in the office of the ..... County Recorder in ..... [insert recording data].

2. I am the presently existing trustee under the trust and am authorized to ..... [describe the transfer to be made by the trustee to the bona fide purchaser], without any limitation or qualification whatsoever.

3. The trust is in existence and I as trustee am authorized to transfer the interests in the real estate as described in paragraph 2, free and clear of any adverse claims.

.....
[signature of affiant]

Sworn to and subscribed before me by ..... on this ..... day of ..... (month), ~~19~~.....(year)

.....
[Notary Public in and for the State of .....]

[Corporate trustee] Affidavit in re [insert legal description]

I, ..., being first duly sworn and under oath state of my personal knowledge that:

1. ..... is the trustee under the trust dated ....., ~~19.....~~ to which the above-described real estate was conveyed to the trustee by ....., pursuant to an instrument recorded the ..... day of ..... (month), ~~19~~..... (year), recorded in the office of the ..... County Recorder in ..... [insert recording data].

2. ..... is the presently existing trustee under the trust and is authorized to ..... [describe the transfer to be made by the trustee to the bona fide purchaser], without any limitation or qualification whatsoever, and I am ..... [officer] of the corporate trustee.

3. The trust is in existence and ..... as trustee is authorized to transfer the interests in the real estate as described in paragraph 2, free and clear of any adverse claims.

.....
[signature of affiant]

Sworn to and subscribed before me by ....., on this ..... day of ..... (month), ~~19~~.....(year)

.....
[Notary Public in and for the State of .....]

Sec. 66. Section 633.230, subsection 1, Code 1999, is amended to read as follows:

1. In intestate matters, the administrator, as soon as letters are issued, shall cause to be published once each week for two consecutive weeks in a daily or weekly newspaper of general circulation published in the county in which the estate is pending, and at any time during the pendency of administration that the administrator has knowledge of the name

and address of a person believed to own or possess a claim which will not or may not be paid or otherwise satisfied during administration, provide by ordinary mail to each such claimant at the claimant's last known address, a notice of appointment which shall be in substantially the following form:

NOTICE OF APPOINTMENT OF
ADMINISTRATOR AND
NOTICE TO CREDITORS

In the District Court of Iowa
in and for ..... County.
In the Estate of ....., Deceased
Probate No. .....

To All Persons Interested in the Estate of ....., Deceased, who died on or about .....~~, 19.....~~(date):

You are hereby notified that on the ..... day of .....(month), ~~19~~.....(year), the undersigned was appointed administrator of the estate.

Notice is hereby given that all persons indebted to the estate are requested to make immediate payment to the undersigned, and creditors having claims against the estate shall file them 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 four months from the second publication of this notice or one month from the date of the mailing of this notice (unless otherwise allowed or paid) a claim is thereafter forever barred.

Dated this ..... day of ..... (month),~~19~~.....(year)

.....
Administrator of the estate

.....
Address

.....
Attorney for the administrator

.....
Address

Date of second publication ..... day of .....(month), ~~19~~.....(year) (Date to be inserted by publisher)

Sec. 67. Section 633.304, unnumbered paragraph 3, Code 1999, is amended to read as follows:

The notice shall be substantially in 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. Probate No.
.....

In the Estate of ....., Deceased

To All Persons Interested in the Estate of ....., Deceased, who died on or about .....~~, 19.....~~ (date):

You are hereby notified that on the ..... day of .....(month), ~~19~~.....(year), the last will and testament of ....., deceased, bearing date of the ..... day of .....(month, ~~19~~.....(year), was admitted to probate in the above named court and that ..... was appointed executor of the estate. Any action to set aside the will must be brought in the district court of said county within the later to occur of four months from the date of the second publication of this notice or one month from the date of mailing of this notice to all heirs of the decedent and devisees under the will whose identities are reasonably ascertainable, or thereafter be forever barred.

Notice is further given that all persons indebted to the estate are requested to make immediate payment to the undersigned, and creditors having claims against the estate shall file them 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 four months from the second publication of this notice or one month from the date of mailing of this notice (unless otherwise allowed or paid) a claim is thereafter forever barred.

Dated this ..... day of .....(month), ~~19~~.....(year)

.....
Executor of estate

.....
Address

.....
Attorney for executor

.....
Address
Date of second publication
..... day of .....(month), ~~19~~.....(year)
(Date to be inserted by publisher)

Sec. 68. Section 633.305, unnumbered paragraph 3, Code 1999, is amended to read as follows:

The notice shall be substantially in the following form:

Notice of Proof of Will Without Administration

In the District Court of Iowa
in and for ..... County.

Probate No.
.....

In the Estate of ....., Deceased
To All Persons Interested in the Estate of ....., Deceased, who died on or about .....(month), ~~19~~.....(year):

You are hereby notified that on the ..... day of .....(month), ~~19~~.....(year), the last will and testament of ....., deceased, bearing date of the ..... day of .....(month), ~~19~~.....(year), was admitted to probate in the above named court and there will be no present administration of the estate. Any action to set aside the will must be brought in the district court of the county within the later to occur of four months from the date of the second publication of this notice or one month from the date of mailing of this notice to all heirs of the decedent and devisees under the will whose identities are reasonably ascertainable, or thereafter be forever barred.

Dated this ..... day of .....(month), ~~19~~.....(year)

.....
Clerk of the district court

.....
Attorney for estate

.....
Address
Date of second publication
..... day of .....(month), ~~19~~.....(year)
(Date to be inserted by publisher)

Approved April 6, 2000

CHAPTER 1059

LAW ENFORCEMENT EMPLOYMENT — POLYGRAPH EXAMINATIONS

H.F. 2172

AN ACT relating to polygraph examinations of applicants for certain law enforcement positions.

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

Section 1. Section 730.4, subsection 3, Code Supplement 1999, is amended to read as follows:

3. a. Subsection 2 does not apply to the state or a political subdivision of the state when in the process of selecting ~~a~~ any of the following:

(1) A candidate for employment as a peace officer ~~or~~.

(2) A candidate for employment as a corrections officer.

(3) An applicant for a position with a law enforcement agency of a political subdivision of the state when the applicant is being considered for a position in which the employee filling the position has direct access to prisoner funds, any other cash assets, and confidential information.

b. Polygraph examinations under this subsection shall adhere to the published antidiscrimination policy of the state or political subdivision conducting the examination.

Approved April 6, 2000

CHAPTER 1060

MEDICAL ASSISTANCE — ELIGIBILITY — TRANSFER OF ASSETS

H.F. 2321

AN ACT relating to medical assistance, including eligibility categories and transfer of assets.

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

Section 1. Section 249A.3, subsection 8, paragraph c, Code Supplement 1999, is amended to read as follows:

c. A specified low-income Medicare beneficiary as defined under Title XIX of the federal Social Security Act, section 1902(a)(10)(E)(iii), as codified in 42 U.S.C. § 1396a(a)(10)(E)(iii).

Sec. 2. Section 249A.3, subsection 8, Code Supplement 1999, is amended by adding the following new paragraphs:

NEW PARAGRAPH. d. An additional specified low-income Medicare beneficiary as described under Title XIX of the federal Social Security Act, section 1902(a)(10)(E)(iv)(I), as codified in 42 U.S.C. § 1396a(a)(10)(E)(iv)(I).

NEW PARAGRAPH. e. An additional specified low-income Medicare beneficiary described under Title XIX of the federal Social Security Act, section 1902(a)(10)(E)(iv)(II), as codified in 42 U.S.C. § 1396a(a)(10)(E)(iv)(II).

Sec. 3. Section 249A.3, subsection 11, Code Supplement 1999, is amended by adding the following new paragraphs:

NEW PARAGRAPH. c. A disclaimer of any property, interest, or right pursuant to section 633.704 constitutes a transfer of assets for the purpose of determining eligibility for medical assistance in an amount equal to the value of the property, interest, or right disclaimed.

NEW PARAGRAPH. d. Failure of a surviving spouse to take against a will pursuant to chapter 633, division V, constitutes a transfer of assets for the purpose of determining eligibility for medical assistance to the extent that the value received by taking against the will would have exceeded the value of the inheritance received under the will.

Sec. 4. Section 249F.1, subsection 2, paragraph b, subparagraph (5), Code 1999, is amended to read as follows:

(5) Transfers of less than two thousand dollars. However, all transfers by the same transferor during ~~a calendar year~~ the five-year period prior to application for medical assistance by the transferor shall be aggregated. If a transferor transfers property to more than one transferee during ~~a calendar year~~ the five-year period prior to application for medical assistance by the transferor, the two thousand dollar exemption shall be divided equally between the transferees.

Sec. 5. Section 249F.1, subsection 2, paragraph b, subparagraph (9), Code 1999, is amended by striking the subparagraph.

Sec. 6. NEW SECTION. 249F.6A EXEMPTION FROM CHAPTER 17A.

Actions initiated under this chapter are not subject to chapter 17A. Review by the district court shall be an original hearing before the district court.

Sec. 7. NEW SECTION. 633.246A MEDICAL ASSISTANCE ELIGIBILITY.

Failure of a surviving spouse to take against a will under this division constitutes a transfer of assets for the purpose of determining eligibility for medical assistance pursuant to chapter 249A to the extent that the value received by taking against the will would have exceeded the value of the inheritance received under the will.

Sec. 8. Section 633.704, Code Supplement 1999, is amended by adding the following new subsection:

NEW SUBSECTION. 4A. MEDICAL ASSISTANCE ELIGIBILITY. A disclaimer of any property, interest, or right under this section constitutes a transfer of assets for the purpose of determining eligibility for medical assistance under chapter 249A, in an amount equal to the value of the property, interest, or right disclaimed.

Approved April 6, 2000

CHAPTER 1061

RENTED MOTOR VEHICLES — STOPPING, STANDING, OR PARKING VIOLATIONS

H.F. 2512

AN ACT relating to certain violations attributed to motor vehicles rented from motor vehicle rental companies.

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

Section 1. Section 321.484, unnumbered paragraph 2, Code 1999, is amended to read as follows:

The owner of a vehicle shall not be held responsible for a violation of a provision regulating the stopping, standing, or parking of a vehicle, whether the provision is contained in this chapter, or chapter 321L, or an ordinance or other regulation or rule, if the owner

establishes that at the time of the violation the vehicle was in the custody of an identified person other than the owner pursuant to a lease as defined in chapter 321F or pursuant to a rental agreement as defined in section 516D.3. The furnishing to the clerk of the district court where the charge is pending of a copy of the lease prescribed by section 321F.6 or rental agreement that was in effect for the vehicle at the time of the alleged violation shall be prima facie evidence that the vehicle was in the custody of an identified person other than the owner within the meaning of this paragraph, and the charge against the owner shall be dismissed. The clerk of the district court then shall cause a uniform citation and complaint to be issued against the lessee or renter of the vehicle, and the citation shall be served upon the defendant by ordinary mail directed to the defendant at the address shown in the lease or rental agreement.

Approved April 6, 2000

CHAPTER 1062

MOTOR VEHICLE ACCIDENTS — DAMAGES

H.F. 2525

AN ACT relating to limitations on recoverable noneconomic damages in legal actions arising out of motor vehicle accidents.

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

Section 1. NEW SECTION. 613.20 LIMITATION ON LIABILITY OF MOTOR VEHICLE OPERATORS.

1. Except as provided in subsection 2, in an action to recover damages arising out of the operation or use of a motor vehicle, a person shall not recover noneconomic losses including, but not limited to, pain and suffering if the injured person was the operator of a motor vehicle, a passenger in a motor vehicle, or a pedestrian and the person's injuries were proximately caused by the person's commission of any felony, or immediate flight therefrom, and the injured person was duly convicted of that felony.

2. This section does not apply if the injured person is found to have no fault in the accident.

3. If a person injured in a motor vehicle accident has been formally charged with the violation of the felony referred to in subsection 1, but a final determination regarding guilt has not been made, liability and uninsured and underinsured motorist insurers, to whom a claim for damages has been presented, shall advise the injured party that settlement of the claim will not be resolved until a final judgment is rendered on the charges. The injured party claiming damages shall provide evidence of the outcome of any criminal charges.

Approved April 6, 2000

CHAPTER 1063

GUARDIANS — PROCUREMENT OF PROFESSIONAL SERVICES FOR WARD

S.F. 2007

AN ACT relating to responsibilities of a guardian in procuring professional services for a ward with a physical or mental disability which do not require prior court approval.

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

Section 1. Section 633.635, subsection 1, paragraph e, Code 1999, is amended to read as follows:

e. Ensuring the ward receives professional care, counseling, treatment or services as needed. If necessitated by the physical or mental disability of the ward, the provision of professional care, counseling, treatment, or services limited to the provision of routine physical and dental examinations and procedures under anesthesia is included, if the anesthesia is provided within the scope of the health care practitioner's scope of practice.

Sec. 2. Section 633.635, subsection 2, paragraph b, Code 1999, is amended to read as follows:

b. Arranging the provision of major elective surgery or any other nonemergency major medical procedure. For the purposes of this paragraph, "major elective surgery" and "nonemergency major medical procedure" do not include the provision to the ward of professional care, counseling, treatment, or services limited to the provision of routine physical and dental examinations and procedures under anesthesia, if the use of anesthesia is necessitated by the physical or mental disability of the ward, and if the anesthesia is provided within the scope of the health care practitioner's scope of practice.

Sec. 3. Section 633.635, Code 1999, is amended by adding the following new subsection:

NEW SUBSECTION. 2A. For the purposes of this section:

a. "Routine dental examinations and procedures" includes preventive services, diagnostic services, restorative services, periodontal services, endodontic services, oral surgery, prosthetic services, and orthodontic procedures.

b. "Routine physical examinations and procedures" includes examinations and procedures performed for the purpose of general treatment or diagnosis or for the purpose of treatment or diagnosis related to a specific illness, symptom, complaint, or injury.

Approved April 7, 2000

CHAPTER 1064

CRIME VICTIM COMPENSATION

S.F. 2142

AN ACT relating to crime victim compensation.

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

Section 1. Section 915.86, Code Supplement 1999, is amended by adding the following new subsections:

NEW SUBSECTION. 2A. 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 when the victim's parent or caretaker accompanies the victim to medical and counseling services, not to exceed one thousand dollars.

NEW SUBSECTION. 2B. Loss of income from work that the victim, the victim's parent or caretaker, or the survivor of a homicide victim as described in subsection 8, would have performed and for which that person would have received remuneration, where the loss of income is a direct result of cooperation with the investigation and prosecution of the crime or attendance at criminal justice proceedings including the trial and sentencing in the case, not to exceed one thousand dollars.

Sec. 2. Section 915.86, subsections 7, 8, and 9, Code Supplement 1999, are amended to read as follows:

7. In the event of a ~~victim's death~~ homicide, reasonable charges incurred for health care for the victim's spouse~~, children, parents, siblings, or persons related by blood or affinity to~~; child, foster child, stepchild, son-in-law, or daughter-in-law; parent, foster parent, or stepparent; sibling, foster sibling, stepsibling, brother-in-law, or sister-in-law; grandparent; grandchild; aunt, uncle, or first cousin; legal ward; or person cohabiting with the victim, not to exceed three thousand dollars per survivor.

8. In the event of a ~~victim's death~~ homicide, loss of income from work that, but for the death of the victim, would have been earned by the victim's spouse~~, child, parent, sibling, or person cohabiting with or related by blood or affinity to~~; child, foster child, stepchild, son-in-law, or daughter-in-law; parent, foster parent, or stepparent; sibling, foster sibling, stepsibling, brother-in-law, or sister-in-law; grandparent; grandchild; aunt, uncle, or first cousin; legal ward; or person cohabiting with the victim, not to exceed six thousand dollars.

9. Reasonable expenses incurred for cleaning the scene of a ~~homicide~~ crime, if the scene is a residence, not to exceed one thousand dollars.

Approved April 7, 2000

CHAPTER 1065

NATIONAL CRIME PREVENTION AND PRIVACY COMPACT

S.F. 2145

AN ACT relating to the national crime prevention and privacy compact.

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

Section 1. NEW SECTION. 692B.1 CITATION.

This chapter may be cited as the "National Crime Prevention and Privacy Compact Act".

Sec. 2. NEW SECTION. 692B.2 CRIME PREVENTION AND PRIVACY COMPACT.

The national crime prevention and privacy compact is enacted into law and entered into by this state with any other state or jurisdiction legally joining the compact in the form substantially as follows:

ARTICLE I — DEFINITIONS

As used in this compact, unless the context clearly requires otherwise:

(1) ATTORNEY GENERAL. The term "attorney general" means the attorney general of the United States.

(2) COMPACT OFFICER. The term "compact officer" means

(A) with respect to the federal government, an official so designated by the director of the FBI; and

(B) with respect to a party state, the chief administrator of the state's criminal history record repository or a designee of the chief administrator who is a regular full-time employee of the repository.

(3) COUNCIL. The term "council" means the compact council established under Article VI.

(4) CRIMINAL HISTORY RECORDS. The term "criminal history records"

(A) means information collected by criminal justice agencies on individuals consisting of identifiable descriptions and notations of arrests, detentions, indictments, or other formal criminal charges, and any disposition arising therefrom, including acquittal, sentencing, correctional supervision, or release; and

(B) does not include identification information such as fingerprint records if such information does not indicate involvement of the individual with the criminal justice system.

(5) CRIMINAL HISTORY RECORD REPOSITORY. The term "criminal history record repository" means the state agency designated by the governor or other appropriate executive official or the legislature of a state to perform centralized record-keeping functions for criminal history records and services in the state.

(6) CRIMINAL JUSTICE. The term "criminal justice" includes activities relating to the detection, apprehension, detention, pretrial release, posttrial release, prosecution, adjudication, correctional supervision, or rehabilitation of accused persons or criminal offenders. The administration of criminal justice includes criminal identification activities and the collection, storage, and dissemination of criminal history records.

(7) CRIMINAL JUSTICE AGENCY. The term "criminal justice agency"

(A) means

(i) courts; and

(ii) a governmental agency or any subunit thereof that

(I) performs the administration of criminal justice pursuant to a statute or executive order; and

(II) allocates a substantial part of its annual budget to the administration of criminal justice; and

(B) includes federal and state inspectors general offices.

(8) CRIMINAL JUSTICE SERVICES. The term "criminal justice services" means services provided by the FBI to criminal justice agencies in response to a request for information about a particular individual or as an update to information previously provided for criminal justice purposes.

(9) CRITERION OFFENSE. The term "criterion offense" means any felony or misdemeanor offense not included on the list of nonserious offenses published periodically by the FBI.

(10) DIRECT ACCESS. The term "direct access" means access to the national identification index by computer terminal or other automated means not requiring the assistance of or intervention by any other party or agency.

(11) EXECUTIVE ORDER. The term "executive order" means an order of the president of the United States or the chief executive officer of a state that has the force of law and that is promulgated in accordance with applicable law.

(12) FBI. The term "FBI" means the federal bureau of investigation.

(13) INTERSTATE IDENTIFICATION SYSTEM. The term "interstate identification index system" or "III system"

(A) means the cooperative federal-state system for the exchange of criminal history records; and

(B) includes the national identification index, the national fingerprint file and, to the extent of their participation in such system, the criminal history record repositories of the states and the FBI.

(14) NATIONAL FINGERPRINT FILE. The term "national fingerprint file" means a database of fingerprints, or other uniquely personal identifying information, relating to an arrested or charged individual maintained by the FBI to provide positive identification of record subjects indexed in the III System.

(15) NATIONAL IDENTIFICATION INDEX. The term "national identification index" means an index maintained by the FBI consisting of names, identifying numbers, and other descriptive information relating to record subjects about whom there are criminal history records in the III system.

(16) NATIONAL INDICES. The term "national indices" means the national identification index and the national fingerprint file.

(17) NONPARTY STATE. The term "nonparty state" means a state that has not ratified this compact.

(18) NONCRIMINAL JUSTICE PURPOSES. The term "noncriminal justice purposes" means uses of criminal history records for purposes authorized by federal or state law other than purposes relating to criminal justice activities, including employment suitability, licensing determinations, immigration and naturalization matters, and national security clearances.

(19) PARTY STATE. The term "party state" means a state that has ratified this compact.

(20) POSITIVE IDENTIFICATION. The term "positive identification" means a determination, based upon a comparison of fingerprints or other equally reliable biometric identification techniques, that the subject of a record search is the same person as the subject of a criminal history record or records indexed in the III system. Identifications based solely upon a comparison of subjects' names or other nonunique identification characteristics or numbers, or combinations thereof, shall not constitute positive identification.

(21) SEALED RECORD INFORMATION. The term "sealed record information" means

(A) with respect to adults, that portion of a record that is

(i) not available for criminal justice uses;

(ii) not supported by fingerprints or other accepted means of positive identification; or

(iii) subject to restrictions on dissemination for noncriminal justice purposes pursuant to a court order related to a particular subject or pursuant to a federal or state statute that requires action on a sealing petition filed by a particular record subject; and

(B) with respect to juveniles, whatever each state determines is a sealed record under its own law and procedure.

(22) STATE. The term "state" means any state, territory, or possession of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

ARTICLE II — PURPOSES

The purposes of this compact are to

(1) provide a legal framework for the establishment of a cooperative federal-state system for the interstate and federal-state exchange of criminal history records for noncriminal justice uses;

(2) require the FBI to permit use of the national identification index and the national fingerprint file by each party state, and to provide, in a timely fashion, federal and state criminal history records to requesting states, in accordance with the terms of this compact and with rules, procedures, and standards established by the council under Article VI;

(3) require party states to provide information and records for the national identification index and the national fingerprint file and to provide criminal history records, in a timely fashion, to criminal history record repositories of other states and the federal government for noncriminal justice purposes, in accordance with the terms of this compact and with rules, procedures, and standards established by the council under Article VI;

(4) provide for the establishment of a council to monitor III system operations and to prescribe system rules and procedures for the effective and proper operation of the III system for noncriminal justice purposes; and

(5) require the FBI and each party state to adhere to III system standards concerning record dissemination and use, response times, system security, data quality, and other duly established standards, including those that enhance the accuracy and privacy of such records.

ARTICLE III — RESPONSIBILITIES OF COMPACT PARTIES

(a) FBI RESPONSIBILITIES. The director of the FBI shall

(1) appoint an FBI compact officer who shall

(A) administer this compact within the department of justice and among federal agencies and other agencies and organizations that submit search requests to the FBI pursuant to Article V(c);

(B) ensure that compact provisions and rules, procedures, and standards prescribed by the council under Article VI are complied with by the department of justice and the federal agencies and other agencies and organizations referred to in Article III(1)(A);[1] and

(C) regulate the use of records received by means of the III system from party states when such records are supplied by the FBI directly to other federal agencies;

(2) provide to federal agencies and to state criminal history record repositories, criminal history records maintained in its database for the noncriminal justice purposes described in Article IV, including

(A) information from nonparty states; and

(B) information from party states that is available from the FBI through the III system, but is not available from the party state through the III system;

(3) provide a telecommunications network and maintain centralized facilities for the exchange of criminal history records for both criminal justice purposes and the noncriminal justice purposes described in Article IV, and ensure that the exchange of such records for criminal justice purposes has priority over exchange for noncriminal justice purposes; and

(4) modify or enter into user agreements with nonparty state criminal history record repositories to require them to establish record request procedures conforming to those prescribed in Article V.

(b) STATE RESPONSIBILITIES. Each party state shall

(1) appoint a compact officer who shall

(A) administer this compact within that state;

(B) ensure that compact provisions and rules, procedures, and standards established by the council under Article VI are complied with in the state; and

(C) regulate the in-state use of records received by means of the III system from the FBI or from other party states;

(2) establish and maintain a criminal history record repository, which shall provide

(A) information and records for the national identification index and the national fingerprint file; and

(B) the state's III system-indexed criminal history records for noncriminal justice purposes described in Article IV;

(3) participate in the national fingerprint file; and

(4) provide and maintain telecommunications links and related equipment necessary to support the services set forth in this compact.

(c) COMPLIANCE WITH III SYSTEM STANDARDS. In carrying out their responsibilities under this compact, the FBI and each party state shall comply with III system rules, procedures, and standards duly established by the council concerning record dissemination and use, response times, data quality, system security, accuracy, privacy protection, and other aspects of III system operation.

(d) MAINTENANCE OF RECORD SERVICES.

(1) Use of the III system for noncriminal justice purposes authorized in this compact shall be managed so as not to diminish the level of services provided in support of criminal justice purposes.

(2) Administration of compact provisions shall not reduce the level of service available to authorized noncriminal justice users on the effective date of this compact.

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[1] Article "III (a)(1)(A)" probably intended

ARTICLE IV — AUTHORIZED RECORD DISCLOSURES

(a) STATE CRIMINAL HISTORY RECORD REPOSITORIES. To the extent authorized by section 552a of title 5, United States Code (commonly known as the Privacy Act of 1974), the FBI shall provide on request criminal history records (excluding sealed records) to state criminal history record repositories for noncriminal justice purposes allowed by federal statute, federal executive order, or a state statute that has been approved by the attorney general and that authorizes national indices checks.

(b) CRIMINAL JUSTICE AGENCIES AND OTHER GOVERNMENTAL OR NONGOVERNMENTAL AGENCIES. The FBI, to the extent authorized by section 552a of title 5, United States Code (commonly known as the Privacy Act of 1974), and state criminal history record repositories shall provide criminal history records (excluding sealed records) to criminal justice agencies and other governmental or nongovernmental agencies for noncriminal justice purposes allowed by federal statute, federal executive order, or a state statute that has been approved by the attorney general, that authorizes national indices checks.

(c) PROCEDURES. Any record obtained under this compact may be used only for the official purposes for which the record was requested. Each compact officer shall establish procedures, consistent with this compact and with rules, procedures, and standards established by the council under Article VI, which procedures shall protect the accuracy and privacy of the records, and shall

(1) ensure that records obtained under this compact are used only by authorized officials for authorized purposes;

(2) require that subsequent record checks are requested to obtain current information whenever a new need arises; and

(3) ensure that record entries that may not legally be used for a particular noncriminal justice purpose are deleted from the response and, if no information authorized for release remains, an appropriate "no record" response is communicated to the requesting official.

ARTICLE V — RECORD REQUEST PROCEDURES

(a) POSITIVE IDENTIFICATION. Subject fingerprints or other approved forms of positive identification shall be submitted with all requests for criminal history record checks for noncriminal justice purposes.

(b) SUBMISSION OF STATE REQUESTS. Each request for a criminal history record check utilizing the national indices made under any approved state statute shall be submitted through that state's criminal history record repository. A state criminal history record repository shall process an interstate request for noncriminal justice purposes through the national indices only if such request is transmitted through another state criminal history record repository or the FBI.

(c) SUBMISSION OF FEDERAL REQUESTS. Each request for criminal history record checks utilizing the national indices made under federal authority shall be submitted through the FBI or, if the state criminal history record repository consents to process fingerprint submissions, through the criminal history record repository in the state in which such request originated. Direct access to the national identification index by entities other than the FBI and state criminal history records repositories shall not be permitted for noncriminal justice purposes.

(d) FEES. A state criminal history record repository or the FBI

(1) may charge a fee, in accordance with applicable law, for handling a request involving fingerprint processing for noncriminal justice purposes; and

(2) may not charge a fee for providing criminal history records in response to an electronic request for a record that does not involve a request to process fingerprints.

(e) ADDITIONAL SEARCH.

(1) If a state criminal history record repository cannot positively identify the subject of a record request made for noncriminal justice purposes, the request, together with finger-

prints or other approved identifying information, shall be forwarded to the FBI for a search of the national indices.

(2) If, with respect to a request forwarded by a state criminal history record repository under paragraph (1), the FBI positively identifies the subject as having a III system indexed record or records

(A) the FBI shall so advise the state criminal history record repository; and

(B) the state criminal history record repository shall be entitled to obtain the additional criminal history record information from the FBI or other state criminal history record repositories.

ARTICLE VI — ESTABLISHMENT OF COMPACT COUNCIL

(a) ESTABLISHMENT.

(1) IN GENERAL. There is established a council to be known as the compact council, which shall have the authority to promulgate rules and procedures governing the use of the III system for noncriminal justice purposes, not to conflict with FBI administration of the III system for criminal justice purposes.

(2) ORGANIZATION. The council shall

(A) continue in existence as long as this compact remains in effect;

(B) be located, for administrative purposes, within the FBI; and

(C) be organized and hold its first meeting as soon as practicable after the effective date of this compact.

(b) MEMBERSHIP. The council shall be composed of fifteen members, each of whom shall be appointed by the attorney general, as follows:

(1) Nine members, each of whom shall serve a two-year term, who shall be selected from among the compact officers of party states based on the recommendation of the compact officers of all party states, except that, in the absence of the requisite number of compact officers available to serve, the chief administrators of the criminal history record repositories of nonparty states shall be eligible to serve on an interim basis.

(2) Two at-large members, nominated by the director of the FBI, each of whom shall serve a three-year term, of whom

(A) One shall be a representative of the criminal justice agencies of the federal government and may not be an employee of the FBI; and

(B) One shall be a representative of the noncriminal justice agencies of the federal government.

(3) Two at-large members, nominated by the chairperson of the council, once the chairperson is elected pursuant to Article VI(c), each of whom shall serve a three-year term, of whom

(A) One shall be a representative of state or local criminal justice agencies; and

(B) One shall be a representative of state or local noncriminal justice agencies.

(4) One member, who shall serve a three-year term, and who shall simultaneously be a member of the FBI's advisory policy board on criminal justice information services, nominated by the membership of that policy board.

(5) One member, nominated by the director of the FBI, who shall serve a three-year term, and who shall be an employee of the FBI.

(c) CHAIRPERSON AND VICE CHAIRPERSON.

(1) IN GENERAL. From its membership, the council shall elect a chairperson and a vice chairperson of the council, respectively. Both the chairperson and vice chairperson of the council

(A) shall be a compact officer, unless there is no compact officer on the council who is willing to serve, in which case the chairperson may be an at-large member; and

(B) shall serve a two-year term and may be reelected to only one additional two-year term.

(2) DUTIES OF VICE CHAIRPERSON. The vice chairperson of the council shall serve as the chairperson of the council in the absence of the chairperson.

(d) MEETINGS.

(1) IN GENERAL. The council shall meet at least once each year at the call of the chairperson. Each meeting of the council shall be open to the public. The council shall provide prior public notice in the federal register of each meeting of the council, including the matters to be addressed at such meeting.

(2) QUORUM. A majority of the council or any committee of the council shall constitute a quorum of the council or of such committee, respectively, for the conduct of business. A lesser number may meet to hold hearings, take testimony, or conduct any business not requiring a vote.

(e) RULES, PROCEDURES, AND STANDARDS. The council shall make available for public inspection and copying at the council office within the FBI, and shall publish in the federal register, any rules, procedures, or standards established by the council.

(f) ASSISTANCE FROM FBI. The council may request from the FBI such reports, studies, statistics, or other information or materials as the council determines to be necessary to enable the council to perform its duties under this compact. The FBI, to the extent authorized by law, may provide such assistance or information upon such a request.

(g) COMMITTEES. The chairperson may establish committees as necessary to carry out this compact and may prescribe their membership, responsibilities, and duration.

ARTICLE VII — RATIFICATION OF COMPACT

This compact shall take effect upon being entered into by two or more states as between those states and the federal government. Upon subsequent entering into this compact by additional states, it shall become effective among those states and the federal government and each party state that has previously ratified it. When ratified, this compact shall have the full force and effect of law within the ratifying jurisdictions. The form of ratification shall be in accordance with the laws of the executing state.

ARTICLE VIII — MISCELLANEOUS PROVISIONS

(a) RELATION OF COMPACT TO CERTAIN FBI ACTIVITIES.

Administration of this compact shall not interfere with the management and control of the director of the FBI over the FBI's collection and dissemination of criminal history records and the advisory function of the FBI's advisory policy board chartered under the Federal Advisory Committee Act (5 U.S.C. App.) for all purposes other than noncriminal justice.

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

(c) RELATING TO PUBLIC LAW 92-544. Nothing in this compact shall diminish or lessen the obligations, responsibilities, and authorities of any state, whether a party state or a nonparty state, or of any criminal history record repository or other subdivision or component thereof, under the Departments of State, Justice, and Commerce, the Judiciary, and Related Agencies Appropriation Act, 1973 (Public Law 92-544), or regulations and guidelines promulgated thereunder, including the rules and procedures promulgated by the council under Article VI(a), regarding the use and dissemination of criminal history records and information.

ARTICLE IX — RENUNCIATION

(a) IN GENERAL. This compact shall bind each party state until renounced by the party state.

(b) EFFECT. Any renunciation of this compact by a party state shall

(1) be effected in the same manner by which the party state ratified this compact; and

(2) become effective one hundred eighty days after written notice of renunciation is provided by the party state to each other party state and to the federal government.

ARTICLE X — 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 participating state, or to the Constitution of the United States, or the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If a portion of this compact is held contrary to the constitution of any party state, all other portions of this compact shall remain in full force and effect as to the remaining party states and in full force and effect as to the party state affected, as to all other provisions.

ARTICLE XI — ADJUDICATION OF DISPUTES

(a) IN GENERAL. The council shall

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

(A) interpretation of this compact;

(B) any rule or standard established by the council pursuant to Article V;[2] and

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

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

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

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

Sec. 3. NEW SECTION. 692B.3 DUTY OF COMMISSIONER.

The commissioner of public safety shall be responsible to implement and administer this compact.

Approved April 7, 2000

[2] See chapter 1232, §84 herein

CHAPTER 1066

COMMUNICABLE AND INFECTIOUS DISEASES

S.F. 2314

AN ACT relating to communicable and infectious diseases and providing penalties.

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

Section 1. NEW SECTION. 139A.1 TITLE.

This chapter shall be known as the "Communicable and Infectious Disease Reporting and Control Act".

Sec. 2. NEW SECTION. 139A.2 DEFINITIONS.

For purposes of this chapter, unless the context otherwise requires:

1. "Business" means and includes every trade, occupation, or profession.
2. "Communicable disease" means any disease spread from person to person or animal to person.
3. "Contagious or infectious disease" means hepatitis in any form, meningococcal disease, tuberculosis, and any other disease, with the exception of AIDS or HIV infection as defined in section 141A.1, determined to be life-threatening to a person exposed to the disease as established by rules adopted by the department, based upon a determination by the state epidemiologist and in accordance with guidelines of the centers for disease control and prevention of the United States department of health and human services.
4. "Department" means the Iowa department of public health.
5. "Designated officer" means a person who is designated by a department, agency, division, or service organization to act as an infection control liaison officer.
6. "Emergency care provider" means a person who is trained and authorized by federal or state law to provide emergency medical assistance or treatment, for compensation or in a voluntary capacity, including but not limited to all of the following:
   a. An emergency medical care provider as defined in section 147A.1.
   b. A health care provider.
   c. A fire fighter.
   d. A peace officer.

   "Emergency care provider" also includes a person who renders direct emergency aid without compensation.
7. "Exposure" means the risk of contracting disease.
8. "Exposure-prone procedure" means a procedure performed by a health care provider which presents a recognized risk of percutaneous injury to the health care provider and if such an injury occurs, the health care provider's blood is likely to contact a patient's body cavity, subcutaneous tissues, or mucous membranes, or exposure-prone procedure as defined by the centers for disease control and prevention of the United States department of health and human services.
9. "HBV" means hepatitis B virus.
10. "Health care facility" means a health care facility as defined in section 135C.1, an ambulatory surgical center, or a clinic.
11. "Health care provider" means a person licensed to practice medicine and surgery, osteopathic medicine and surgery, osteopathy, chiropractic, podiatry, nursing, dentistry, optometry, or as a physician assistant, dental hygienist, or acupuncturist.
12. "HIV" means HIV as defined in section 141A.1.
13. "Hospital" means hospital as defined in section 135B.1.
14. "Isolation" means the separation of persons or animals presumably or actually affected with a communicable disease or who are disease carriers for the usual period of communicability of that disease in such places, marked by placards if necessary, and under such conditions as will prevent the direct or indirect conveyance of the infectious agent or contagion to susceptible persons.

15. "Local board" means the local board of health.

16. "Local department" means the local health department.

17. "Placard" means a warning sign to be erected and displayed on the periphery of a quarantine area, forbidding entry to or exit from the area.

18. "Quarantinable disease" means any communicable disease designated by rule adopted by the department as requiring quarantine or isolation to prevent its spread.

19. "Quarantine" means the limitation of freedom of movement of persons or animals that have been exposed to a communicable disease within specified limits marked by placards for a period of time equal to the longest usual incubation period of the disease in such manner as to prevent the spread of a communicable disease which affects people.

20. "Reportable disease" means any disease designated by rule adopted by the department requiring its occurrence to be reported to an appropriate authority.

21. "Sexually transmitted disease or infection" means a disease or infection as identified by rules adopted by the department, based upon a determination by the state epidemiologist and in accordance with guidelines of the centers for disease control and prevention of the United States department of health and human services.

22. "Terminal cleaning" means cleaning procedures defined in the isolation guidelines issued by the centers for disease control and prevention of the United States department of health and human services.

Sec. 3. NEW SECTION. 139A.3 REPORT TO DEPARTMENT.

1. The health care provider or public, private, or hospital clinical laboratory attending a person infected with a reportable disease shall immediately report the case to the department. However, when a case occurs within the jurisdiction of a local health department, the report shall be made to the local department and to the department. A health care provider or public, private, or hospital clinical laboratory who files such a report which identifies a person infected with a reportable disease shall assist in the investigation by the department, a local board, or a local department. The department shall publish and distribute instructions concerning the method of reporting. Reports shall be made in accordance with rules adopted by the department and shall require inclusion of all the following information:

a. The patient's name.

b. The patient's address.

c. The patient's date of birth.

d. The sex 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 name and address of the laboratory.

i. The date the test was found to be positive and the collection date.

j. The name of the health care provider who performed the test.

k. If the patient is female, whether the patient is pregnant.

2. a. Any person who, acting reasonably and in good faith, files a report under this section is immune from any liability, civil or criminal, which might otherwise be incurred or imposed for making a report.

b. A report to the department, to a local board, or to a local department, which identifies a person infected with a reportable disease, is confidential and shall not be accessible to the public.

c. Notwithstanding paragraph "b", information contained in the report may be reported in public health records in a manner which prevents the identification of any person or business named in the report. If information contained in the report concerns a business, information disclosing the identity of the business may be released to the public when the state epidemiologist or the director of public health determines such a release of information necessary for the protection of the health of the public.

Sec. 4. NEW SECTION. 139A.4 TYPE AND LENGTH OF ISOLATION OR QUARANTINE.

1. The type and length of isolation or quarantine imposed for a specific communicable disease shall be in accordance with rules adopted by the department.

2. The department and the local boards may impose and enforce isolation and quarantine restrictions.

3. The department shall adopt rules governing terminal cleaning.

Sec. 5. NEW SECTION. 139A.5 ISOLATION OR QUARANTINE SIGNS ERECTED.

When isolation or a quarantine is established, appropriate placards prescribed by the department shall be erected to mark the boundaries of the place of isolation or quarantine.

Sec. 6. NEW SECTION. 139A.6 COMMUNICABLE DISEASES.

If a person, whether or not a resident, is infected with a communicable disease dangerous to the public health, the local board shall issue orders in regard to the care of the person as necessary to protect the public health. The orders shall be executed by the designated officer as the local board directs or provides by rules.

Sec. 7. NEW SECTION. 139A.7 DISEASED PERSONS MOVING — RECORD FORWARDED.

If a person known to be suffering from a communicable disease dangerous to the public health moves from the jurisdiction of a local board into the jurisdiction of another local board, the local board from whose jurisdiction the person moves shall notify the local board into whose jurisdiction the person is moving.

Sec. 8. NEW SECTION. 139A.8 IMMUNIZATION OF CHILDREN.

1. A parent or legal guardian shall assure that the person's minor children residing in the state are adequately immunized against diphtheria, pertussis, tetanus, poliomyelitis, rubeola, and rubella, according to recommendations provided by the department subject to the provisions of subsections 3 and 4.

2. a. A person shall not be enrolled in any licensed child care center or elementary or secondary school in Iowa without evidence of adequate immunizations against diphtheria, pertussis, tetanus, poliomyelitis, rubeola, and rubella.

b. Evidence of adequate immunization against haemophilus influenza B shall be required prior to enrollment in any licensed child care center.

c. Evidence of hepatitis type B immunization shall be required of a child born on or after July 1, 1994, prior to enrollment in school in kindergarten or in a grade.

d. Immunizations shall be provided according to recommendations provided by the department subject to the provisions of subsections 3 and 4.

3. Subject to the provision of subsection 4, the state board of health may modify or delete any of the immunizations in subsection 2.

4. Immunization is not required for a person's enrollment in any elementary or secondary school or licensed child care center if either of the following applies:

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, who is licensed by the state board of medical examiners, that, in the physician's opinion, the immunizations required would be injurious to the health and well-being of the applicant or any member of the applicant's family.

b. The applicant, or if the applicant is a minor, the applicant's parent or legal guardian, submits an affidavit signed by the applicant, or if the applicant is a minor, the applicant's parent or legal guardian, stating that the immunization conflicts with the tenets and practices of a recognized religious denomination of which the applicant is an adherent or member.

The exemptions under this subsection do not apply in times of emergency or epidemic as determined by the state board of health and as declared by the director of public health.

5. A person may be provisionally enrolled in an elementary or secondary school or licensed child care center if the person has begun the required immunizations and if the person continues to receive the necessary immunizations as rapidly as is medically feasible. The department shall adopt rules relating to the provisional admission of persons to an elementary or secondary school or licensed child care center.

6. The local board shall furnish the department, within sixty days after the first official day of school, evidence that each person enrolled in any elementary or secondary school has been immunized as required in this section subject to subsection 4. The department shall adopt rules pursuant to chapter 17A relating to the reporting of evidence of immunization.

7. Local boards shall provide the required immunizations to children in areas where no local provision of these services exists.

8. The department, in consultation with the director of the department of education, shall adopt rules for the implementation of this section and shall provide those rules to local school boards and local boards.

Sec. 9. NEW SECTION. 139A.9 FORCIBLE REMOVAL — ISOLATION — QUARANTINE.

The forcible removal and isolation or quarantine of any infected person shall be accomplished according to the rules and regulations of the local board or the rules of the state board of health.

Sec. 10. NEW SECTION. 139A.10 FEES FOR REMOVING.

The officers designated by the magistrate shall receive reasonable compensation for their services as determined by the local board. The amount determined shall be certified and paid in the same manner as other expenses incurred under this chapter.

Sec. 11. NEW SECTION. 139A.11 MEDICAL ATTENDANCE AND SUPPLIES — ISOLATION — QUARANTINE.

If the person under isolation or quarantine or the person liable for the support of the person, in the opinion of the local board, is financially unable to secure proper care, provisions, or medical attendance, the local board shall furnish supplies and services during the period of isolation or quarantine and may delegate the duty, by rules, to one of its designated officers.

Sec. 12. NEW SECTION. 139A.12 COUNTY LIABILITY FOR SUPPLIES.

The local board shall provide proper care, provisions, and medical attendance for any person removed and isolated or quarantined in a separate house or hospital for detention and treatment, and the care, provisions, and medical attendance shall be paid for by the county in which the infected person has a legal settlement, if the patient or legal guardian is unable to pay.

Sec. 13. NEW SECTION. 139A.13 RIGHTS OF ISOLATED OR QUARANTINED PERSONS.

Any person removed and isolated or quarantined in a separate house or hospital may, at the person's own expense, employ the health care provider of the person's choice, and may provide such supplies and commodities as the person may require.

Sec. 14. NEW SECTION. 139A.14 SERVICES OR SUPPLIES.

All services or supplies furnished to persons under this chapter must be authorized by the local board or an officer of the local board, and a written order designating the person employed to furnish such services or supplies, issued before the services or supplies are furnished, shall be attached to the bill when presented for audit and payment.

Sec. 15. NEW SECTION. 139A.15 FILING OF BILLS.

All bills incurred under this chapter in establishing, maintaining, and terminating isolation and quarantine, in providing a necessary house or hospital for isolation or quarantine,

and in making terminal cleanings, shall be filed with the local board. The local board at its next regular meeting or special meeting called for this purpose shall examine and audit the bills and, if found correct, approve and certify the bills to the county board of supervisors for payment.

Sec. 16. NEW SECTION. 139A.16 ALLOWING CLAIMS.

All bills for supplies furnished and services rendered for persons removed and isolated or quarantined in a separate house or hospital, or for persons financially unable to provide their own sustenance and care during isolation or quarantine, shall be allowed and paid for only on a basis of the local market price for such provisions, services, and supplies in the locality furnished. A bill for the terminal cleaning of premises or effects shall not be allowed, unless the infected person or those liable for the person's support are financially unable to pay.

Sec. 17. NEW SECTION. 139A.17 APPROVAL AND PAYMENT OF CLAIMS.

The board of supervisors is not bound by the action of the local board in approving the bills, but shall pay the bills for a reasonable amount and within a reasonable time.

Sec. 18. NEW SECTION. 139A.18 REIMBURSEMENT FROM COUNTY.

If any person receives services or supplies under this chapter who does not have a legal settlement in the county in which the bills were incurred and paid, the amount paid shall be certified to the board of supervisors of the county in which the person claims settlement or owns property, and the board of supervisors of that county shall reimburse the county from which the claim is certified, in the full amount originally paid.

Sec. 19. NEW SECTION. 139A.19 EMERGENCY CARE PROVIDER NOTIFICATION.

1. a. A hospital licensed under chapter 135B shall have written policies and procedures for notification of an emergency care provider who renders assistance or treatment to an individual when in the course of admission, care, or treatment of the individual, the individual is diagnosed or is confirmed as having a contagious or infectious disease.

b. If an individual is diagnosed or confirmed as having a contagious or infectious disease, the hospital shall notify the designated officer of an emergency care provider service who shall notify persons involved in attending or transporting the individual. For blood-borne contagious or infectious diseases, notification shall only take place upon filing of an exposure report form with the hospital. The 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.

c. A person who renders direct emergency aid without compensation and is exposed to an individual who has a contagious or infectious disease shall also receive notification from the hospital upon the filing with the hospital of an exposure report form developed by the department.

d. The notification shall advise the emergency care provider of possible exposure to a particular contagious or infectious disease and recommend that the provider seek medical attention. The notification shall be provided as soon as is reasonably possible following determination that the individual has a contagious or infectious disease.

e. This subsection does not require a hospital to administer a test for the express purpose of determining the presence of a contagious or infectious disease. The notification shall not include the name of the individual with the contagious or infectious disease unless the individual consents.

f. The department shall adopt rules pursuant to chapter 17A to administer this subsection.

2. A health care provider shall provide the notification required of hospitals in this section to emergency care providers if an individual who has a contagious or infectious disease is delivered by an emergency care provider to the office or clinic of a health care provider for treatment. The notification shall not include the name of the individual who has the contagious or infectious disease unless the individual consents.

3. This section does not preclude a hospital from providing notification to an emergency care provider or health care provider under circumstances in which the hospital's policy provides for notification of the hospital's own employees of exposure to a contagious or infectious disease that is not life-threatening if the notice does not reveal a patient's name unless the patient consents.

4. A hospital, health care provider, or other person acting reasonably and in good faith in complying with provisions authorized or required under this section, is immune from any liability, civil or criminal, which may otherwise be incurred or imposed.

5. A hospital's or health care provider's duty of notification under this section is not continuing but is limited to a diagnosis of a contagious or infectious disease made in the course of admission, care, and treatment following the rendering of emergency assistance or treatment to which notification under this section applies.

Sec. 20. NEW SECTION. 139A.20 EXPOSING TO COMMUNICABLE DISEASE.

A person who knowingly exposes another to a communicable disease or who knowingly subjects another to a child or other legally incapacitated person who has contracted a communicable disease, with the intent that another person contract the communicable disease, shall be liable for all resulting damages and shall be punished as provided in this chapter.

Sec. 21. NEW SECTION. 139A.21 REPORTABLE POISONINGS AND ILLNESSES — EMERGENCY INFORMATION SYSTEM.

1. If the results of an examination by a public, private, or hospital clinical laboratory of a specimen from a person in Iowa yield evidence of or are reactive for a reportable poisoning or a reportable illness from a toxic agent, including methemoglobinemia, the results shall be reported to the department on forms prescribed by the department. If the laboratory is located in Iowa, the person in charge of the laboratory shall report the results. If the laboratory is not in Iowa, the health care provider submitting the specimen shall report the results.

2. The health care provider attending a person infected with a reportable poisoning or a reportable illness from a toxic agent, including methemoglobinemia, shall immediately report the case to the department. The department shall publish and distribute instructions concerning the method of reporting. Reports shall be made in accordance with rules adopted by the department.

3. A person in charge of a poison control information center shall report to the department cases of reportable poisoning, including methemoglobinemia, about which inquiries have been received.

4. The department shall adopt rules designating reportable poisonings, including methemoglobinemia, and illnesses which must be reported under this section.

5. The department shall establish and maintain a central registry to collect and store data reported pursuant to this section.

6. The department shall timely provide copies of all reports of pesticide poisonings or illnesses received pursuant to this section to the secretary of agriculture who shall timely forward these reports and any reports of pesticide poisonings or illnesses received pursuant to section 206.14 to the registrant of a pesticide which is the subject of any reports.

7. The department shall adopt rules specifying the requirements for the operation of an emergency information system operated by a registrant pursuant to section 206.12, subsection 2, paragraph "c", which shall not exceed requirements adopted by a poison control center as defined in section 206.2. The rules shall specify the qualifications of individuals staffing an emergency information system and shall specify the maximum amount of time that a registrant may take to provide the information to a poison control center or an attending physician treating a patient exposed to the registrant's product.

Sec. 22. NEW SECTION. 139A.22 PREVENTION OF TRANSMISSION OF HIV OR HBV TO PATIENTS.

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 board with jurisdiction over the relevant health care providers.

2. A health care facility shall adopt procedures in accordance with recommendations issued by the centers for disease control and prevention of the United States department of health and human services, applicable to a health care provider determined to be infected with HIV or HBV who ordinarily performs or assists with exposure-prone procedures within the health care facility. The procedures shall require referral of the health care provider to the expert review panel established by the department pursuant to subsection 3.

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 or referred to the panel by a hospital or health care facility setting 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 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.

4. The health care provider determined to be infected with HIV or HBV, who works in a hospital setting, may elect either the expert review panel established by the hospital or the expert review panel established by the department for the purpose of making a determination of the circumstances under which the health care provider may perform exposure-prone procedures.

5. A health care provider determined to be infected with HIV or HBV shall not perform an exposure-prone procedure except as approved by the expert review panel established by the department pursuant to subsection 3, or in compliance with the protocol established by the hospital pursuant to subsection 1 or the procedures established by the health care facility pursuant to subsection 2.

6. The board of medical examiners, the board of physician assistant examiners, the board of podiatry examiners, the board of nursing, the board of dental examiners, 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. 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 board by filing a report as required by this section. The examining 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 board based on such a complaint, may seek a protective order from the board.

8. The expert review panel established by the department and individual members of the panel shall be immune from any liability, civil or criminal, for reasonable actions taken in the good faith performance of functions authorized or required by this section. A hospital, an expert review panel established by the hospital, and individual members of the panel shall be immune from any liability, civil or criminal, for reasonable actions taken in the good faith performance of functions authorized or required by this section. Complaints, investigations, reports, deliberations, and findings of the hospital and its panel with respect to a named health care provider suspected, alleged, or found to be in violation of the protocol required by this section, constitute peer review records under section 147.135, and are subject to the specific confidentiality requirements and limitations of that section.

Sec. 23. NEW SECTION. 139A.23 CONTINGENT REPEAL.

If the provisions of Pub. L. No. 102-141 relating to requirements for prevention of transmission of HIV or HBV to patients in the performance of exposure-prone procedures are repealed, section 139A.22 is repealed.

Sec. 24. NEW SECTION. 139A.24 BLOOD DONATION OR SALE — PENALTY.

A person suffering from a communicable disease dangerous to the public health who knowingly gives false information regarding the person's infected state on a blood plasma sale application to blood plasma-taking personnel commits a serious misdemeanor.

Sec. 25. NEW SECTION. 139A.25 PENALTIES.

1. Unless otherwise provided in this chapter, a person who knowingly violates any provision of this chapter, or of the rules of the department or a local board, or any lawful order, written or oral, of the department or board, or of their officers or authorized agents, is guilty of a simple misdemeanor.

2. Notwithstanding subsection 1, an individual who repeatedly fails to file any mandatory report specified in this chapter 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 that 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.

3. Notwithstanding subsection 1, a public, private or hospital clinical laboratory that repeatedly fails to file a mandatory report specified in this chapter 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.

SUBCHAPTER I
CONTROL OF SEXUALLY TRANSMITTED DISEASES AND INFECTIONS

Sec. 26. NEW SECTION. 139A.30 CONFIDENTIAL REPORTS.

Reports to the department which include the identity of persons infected with a sexually transmitted disease or infection, and all such related information, records, and reports concerning the person shall be confidential and shall not be accessible to the public. However, such reports, information, and records shall be confidential only to the extent necessary to prevent identification of persons named in such reports, information, and records; the other parts of such reports, information, and records shall be public records. The preceding sentence shall prevail over any inconsistent provision of this chapter.

Sec. 27. NEW SECTION. 139A.31 REPORT TO DEPARTMENT.

Immediately after the first examination or treatment of any person infected with any sexually transmitted disease or infection, the health care provider who performed the examination or treatment shall transmit to the department a report stating the name of the

infected person, the address of the infected person, the infected person's date of birth, the sex of the infected person, the race and ethnicity of the infected person, the infected person's marital status, the infected person's telephone number, if the infected person is female, whether the infected person is pregnant, the name and address of the laboratory that performed the test, the date the test was found to be positive and the collection date, and the name of the health care provider who performed the test. However, when a case occurs within the jurisdiction of a local health department, the report shall be made directly to the local health department which shall immediately forward the information to the department. Reports shall be made in accordance with rules adopted by the department. Reports shall be confidential. Any person filing a report of a sexually transmitted disease or infection who is acting reasonably and in good faith is immune from any liability, civil or criminal, which might otherwise be incurred or imposed as a result of such report.

Sec. 28. NEW SECTION. 139A.32 EXAMINATION RESULTS.

A person in charge of a public, private, or hospital clinical laboratory shall report to the department, on forms prescribed by the department, results obtained in the examination of all specimens which yield evidence of or are reactive for those diseases defined as sexually transmitted diseases or infections, and listed in the Iowa administrative code. The report shall state the name of the infected person from whom the specimen was obtained, the address of the infected person, the infected person's date of birth, the sex of the infected person, the race and ethnicity of the infected person, the infected person's marital status, the infected person's telephone number, if the infected person is female whether the infected person is pregnant, the name and address of the laboratory that performed the test, the laboratory results, the test employed, the date the test was found to be positive and the collection date, the name of the health care provider who performed the test, and the name and address of the person submitting the specimen.

Sec. 29. NEW SECTION. 139A.33 DETERMINATION OF SOURCE.

The local board or the department shall use every available means to determine the source and spread of any infectious case of sexually transmitted disease or infection which is reported.

Sec. 30. NEW SECTION. 139A.34 EXAMINATION OF PERSONS SUSPECTED.

The local board shall cause an examination to be made of every person reasonably suspected, on the basis of epidemiological investigation, of having any sexually transmitted disease or infection in the infectious stages to ascertain if such person is infected, and if infected, to cause such person to be treated. A person who is under the care and treatment of a health care provider for the suspected condition shall not be subjected to such examination. If a person suspected of having a sexually transmitted disease or infection refuses to submit to an examination voluntarily, application may be made by the local board to the district court for an order compelling the person to submit to examination and, if infected, to treatment. The person shall be treated until certified as no longer infectious to the local board or to the department. If treatment is ordered by the district court, the attending health care provider shall certify that the person is no longer infectious.

Sec. 31. NEW SECTION. 139A.35 MINORS.

A minor who seeks diagnosis or treatment for a sexually transmitted disease or infection shall have the legal capacity to act and give consent to medical care and service for the sexually transmitted disease or infection by a hospital, clinic, or health care provider. Such medical diagnosis and treatment shall be provided by a physician licensed to practice medicine and surgery, osteopathy, or osteopathic medicine and surgery. Consent shall not be subject to later disaffirmance by reason of such minority. The consent of another person, including but not limited to the consent of a spouse, parent, custodian, or guardian, shall not be necessary.

Sec. 32. NEW SECTION. 139A.36 CERTIFICATE NOT TO BE ISSUED.
A certificate of freedom from sexually transmitted disease or infection shall not be issued to any person by any official health agency.

Sec. 33. NEW SECTION. 139A.37 PREGNANT WOMEN.
The department shall adopt rules which incorporate the prenatal guidelines established by the centers for disease control and prevention of the United States department of health and human services as the state guidelines for prenatal testing and care relative to infectious disease.

Sec. 34. NEW SECTION. 139A.38 MEDICAL TREATMENT OF NEWLY BORN.
A physician attending the birth of a child shall cause to be instilled into the eyes of the newly born infant a prophylactic solution approved by the department. This section shall not be construed to require treatment of the infant's eyes with a prophylactic solution if the infant's parent or legal guardian states that such treatment conflicts with the tenets and practices of a recognized religious denomination of which the parent or legal guardian is an adherent or member.

Sec. 35. NEW SECTION. 139A.39 RELIGIOUS EXCEPTIONS.
A provision of this chapter shall not be construed to require or compel any person to take or follow a course of medical treatment prescribed by law or a health care provider if the person is an adherent or member of a church or religious denomination and in accordance with the tenets or principles of the person's church or religious denomination the person opposes the specific course of medical treatment. However, such person while in an infectious stage of disease shall be subject to isolation and such other measures appropriate for the prevention of the spread of the disease to other persons.

Sec. 36. NEW SECTION. 139A.40 FILING FALSE REPORTS.
A person who knowingly makes a false statement in any of the reports required by this subchapter concerning persons infected with any sexually transmitted disease or infection, or who discloses the identity of such person, except as authorized by this subchapter, shall be punished as provided in section 139A.25.

Sec. 37. Section 135.11, subsections 8, 16, and 20, Code Supplement 1999, are amended to read as follows:
8. Exercise general supervision over the administration and enforcement of the ~~venereal disease~~ sexually transmitted diseases and infections law, chapter ~~140~~ 139A, subchapter I.
16. Administer chapters 125, 136A, 136C, ~~139~~ 139A, ~~140,~~ 142, 144, and 147A.
20. Establish, publish, and enforce rules requiring prompt reporting of methemoglobinemia, pesticide poisoning, and the reportable poisonings and illnesses established pursuant to section ~~139.35~~ 139A.21.

Sec. 38. Section 135G.14, subsection 2, Code 1999, is amended to read as follows:
2. A prophylactic shall be instilled in the eyes of each newborn in accordance with section ~~140.13~~ 139A.38.

Sec. 39. Section 141A.6, Code Supplement 1999, is amended by adding the following new subsections:
NEW SUBSECTION. 7. 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.
NEW SUBSECTION. 8. 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. 40. Section 141A.9, Code Supplement 1999, 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. Information shall be made available for release to the following individuals or under the following circumstances:

~~1.~~ 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.

~~2.~~ 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.

~~3.~~ 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.

~~4.~~ 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.

~~5.~~ e. To the department in accordance with reporting requirements for an HIV-related condition.

~~6.~~ 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.

~~7.~~ g. Release may be made of medical or epidemiological information for statistical purposes in a manner such that no individual person can be identified.

~~8.~~ 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.

~~9.~~ 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.

~~10.~~ j. Release may be made of test results concerning a patient pursuant to procedures established under section 141A.5, subsection 3, paragraph "c".

~~11.~~ k. To a person allowed access to a record by a court order which is issued in compliance with the following provisions:

~~a.~~ (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.

~~b.~~ (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.

~~c.~~ (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.

~~d.~~ (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.

~~e.~~ (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.

~~12.~~ l. To an employer, if the test is authorized to be required under any other provision of law.

~~13.~~ m. 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.

~~14.~~ n. 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".

2. 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. 41. Section 206.12, subsection 2, paragraph c, subparagraph (2), Code 1999, is amended to read as follows:

(2) The registrant operates an emergency information system as provided in section ~~139.35~~ 139A.21 that is available to poison control centers twenty-four hours a day every day of the year. The emergency information system must provide information to medical professionals required for the sole purpose of treating a specific patient for exposure or adverse reaction to the registrant's product, including the identification of all ingredients which are toxic to humans, and toxicological and medical management information.

Sec. 42. Section 232.69, subsection 1, paragraph a, Code Supplement 1999, is amended to read as follows:

a. Every health practitioner who in the scope of professional practice, examines, attends, or treats a child and who reasonably believes the child has been abused. Notwithstanding section ~~140.3~~ 139A.30, this provision applies to a health practitioner who receives information confirming that a child is infected with a sexually transmitted disease.

Sec. 43. Section 239B.12, subsection 1, Code 1999, is amended to read as follows:

1. To the extent feasible, the department shall determine the immunization status of children receiving assistance under this chapter. The status shall be determined in accordance with the immunization recommendations adopted by the Iowa department of public health under section ~~139.9~~ 139A.8, including the exemption provisions in section ~~139.9~~ 139A.8, subsection 4. If the department determines a child is not in compliance with the immunization recommendations, the department shall refer the child's parent or guardian to a local public health agency for immunization services for the child and other members of the child's family.

Sec. 44. Section 252.24, unnumbered paragraph 2, Code 1999, is amended to read as follows:

When assistance is furnished by any governmental agency of the county, township, or city, the assistance shall be deemed to have been furnished by the county in which the agency is located and the agency furnishing the assistance shall certify the correctness of the costs of the assistance to the board of supervisors of that county and that county shall collect from the county of the person's settlement. The amounts collected by the county where the agency is located shall be paid to the agency furnishing the assistance. This statute applies to services and supplies furnished as provided in section ~~139.30~~ 139A.18.

Sec. 45. Section 299.4, Code 1999, 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 ~~139.9~~ 139A.8. The term "outline of course of study" shall include subjects covered, lesson plans, and time spent on the areas of study.

Sec. 46. Section 455E.11, subsection 2, paragraph a, subparagraph (2), subparagraph subdivision (a), subparagraph subdivision part (i), Code 1999, is amended to read as follows:

(i) Eight thousand dollars shall be transferred to the Iowa department of public health for departmental duties required under section 135.11, subsections 20 and 21, and section ~~139.35~~ 139A.21.

Sec. 47. Section 455E.11, subsection 2, paragraph b, subparagraph (1), Code 1999, is amended to read as follows:

(1) Nine thousand dollars of the account is appropriated to the Iowa department of public health for carrying out the departmental duties under section 135.11, subsections 20 and 21, and section ~~139.35~~ 139A.31.[1]

Sec. 48. Section 455E.11, subsection 2, paragraph c, unnumbered paragraph 1, Code 1999, is amended to read as follows:

A household hazardous waste account. The moneys collected pursuant to section 455F.7 and moneys collected pursuant to section 29C.8A which are designated for deposit, shall be deposited in the household hazardous waste account. Two thousand dollars is appropriated annually to the Iowa department of public health to carry out departmental duties under section 135.11, subsections 20 and 21, and section ~~139.35~~ 139A.21. The remainder of the account shall be used to fund toxic cleanup days and the efforts of the department to support a collection system for household hazardous materials, including public education programs, training, and consultation of local governments in the establishment and operation of permanent collection systems, and the management of collection sites, education programs, and other activities pursuant to chapter 455F, including the administration of the household hazardous materials permit program by the department of revenue and finance.

Sec. 49. Section 455E.11, subsection 2, paragraph d, subparagraph (1), Code 1999, is amended to read as follows:

(1) One thousand dollars is appropriated annually to the Iowa department of public health to carry out departmental duties under section 135.11, subsections 20 and 21, and section ~~139.35~~ 139A.21.

Sec. 50. POSTSECONDARY EDUCATION STUDENTS — IMMUNIZATION REQUIREMENTS — TASK FORCE. The director of public health shall establish a task force to review and recommend appropriate immunization requirements for postsecondary education students. The task force shall include representatives of the Iowa department of public health and the department of education, postsecondary education students, and others with interest and expertise in the areas of public health and education. The task force shall submit a

[1] Iowa Code section 139A.21 probably intended

report of its findings and recommendations to the governor and the general assembly on or before December 1, 2000.

Sec. 51. Chapters 139, 139B, 139C, and 140, Code 1999 and Code Supplement 1999, are repealed.

Sec. 52. Section 137C.19, Code 1999, is repealed.

Approved April 7, 2000

CHAPTER 1067

CHILD AND FAMILY SERVICES

S.F. 2344

AN ACT relating to child and family services administered by the department of human services.

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

DIVISION I
HOME CONDITION INVESTIGATIONS

Section 1. Section 598.12, subsections 2 and 3, Code 1999, are amended to read as follows:

2. The court may require that ~~the department of human services or~~ an appropriate agency make an investigation of both parties regarding the home conditions, parenting capabilities, and other matters pertinent to the best interests of the child or children in a dispute concerning custody of the child or children. The investigation report completed by the ~~department of human services or an~~ appropriate agency shall be submitted to the court and available to both parties. The investigation report completed by the ~~department of human services or an~~ appropriate agency shall be a part of the record unless otherwise ordered by the court.

3. The court shall enter an order in favor of the attorney~~, the department of human services,~~ or an appropriate agency for fees and disbursements, ~~which~~ and the amount shall be charged against the party responsible for court costs unless the court determines that the party responsible for costs is indigent in which event the fees shall be borne by the county.

DIVISION II
ABUSE REGISTRY ACCESS

Sec. 2. Section 235A.19, subsection 2, paragraph b, Code 1999, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (8) For statutorily authorized record checks for employment of an individual by a provider of adult home care, adult health facility care, or other adult placement facility care.

Sec. 3. Section 235B.6, subsection 2, paragraph e, Code Supplement 1999, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (8) To the administrator of an agency providing care to a dependent adult in another state, for the purpose of performing an employment background check.

DIVISION III
CASE PERMANENCY PLANS
AND OTHER CHILD WELFARE
REQUIREMENTS

Sec. 4. Section 232.2, subsection 4, unnumbered paragraph 1, Code Supplement 1999, is amended to read as follows:

"Case permanency plan" means the plan, mandated by Pub. L. No. 96-272 and Pub. L. No. 105-89, as codified in 42 U.S.C. § 622(b)(10), 671(a)(16), ~~627(a)(2)(B),~~ and 675(1),(5), which is designed to achieve placement in the most appropriate, least restrictive, and most family-like, and most appropriate[1] setting available and in close proximity to the parent's home, consistent with the best interests and special needs of the child, and which considers the placement's proximity to the school in which the child is enrolled at the time of placement. The plan shall be developed by the department or agency involved and the child's parent, guardian, or custodian. The plan shall specifically include all of the following:

Sec. 5. Section 232.2, subsection 4, Code Supplement 1999, is amended by adding the following new paragraphs:

NEW PARAGRAPH. 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 months.

NEW PARAGRAPH. j. If it has been determined that the child cannot return to the child's home, documentation of the steps taken to make and finalize an adoption or other permanent placement.

Sec. 6. Section 232.78, subsection 3, Code Supplement 1999, is amended to read as follows:

3. ~~The order shall specify the facility to which the child is to be brought.~~ Except for good cause shown or unless the child is sooner returned to the place where the child was residing or permitted to return to the child care facility, a petition shall be filed under this chapter within three days of the issuance of the order.

Sec. 7. Section 232.78, subsection 6, Code Supplement 1999, is amended to read as follows:

6. Any person who may file a petition under this chapter may apply for, or the court on its own motion may issue, an order for temporary removal under this section. An appropriate person designated by the court shall confer with a person seeking the removal order, shall make every reasonable effort to inform the parent or other person legally responsible for the child's care of the application, and shall make such inquiries as will aid the court in disposing of such application. The person designated by the court shall file with the court a complete written report providing all details of the designee's conference with the person seeking the removal order, the designee's efforts to inform the parents or other person legally responsible for the child's care of the application, any inquiries made by the designee to aid the court in disposing of the application, and all information the designee communicated to the court. The report shall be filed within five days of the date of the removal order. If the court does not designate an appropriate person who performs the required duties, notwithstanding section 234.39 or any other provision of law, the child's parent shall not be responsible for paying the cost of care and services for the duration of the removal order.

7. Any order entered under this section authorizing temporary removal of a child shall include ~~a~~ both of the following:

a. A statement that the temporary removal is the result of a determination that the child remaining in the child's home would be contrary to the welfare of the child, and that reasonable efforts have been made to prevent or eliminate the need for removal of the child from the child's home.

[1] See chapter 1232, §56 herein

b. A statement informing the child's parent that the consequences of a permanent removal may include termination of the parent's rights with respect to the child.

Sec. 8. Section 232.95, subsection 1, Code 1999, is amended to read as follows:

1. At any time after the petition is filed any person who may file a petition under section 232.87 may apply for, or the court on its own motion may order, a hearing to determine whether the child should be temporarily removed from home. ~~Where~~ If the child is in the custody of a person other than the child's parent, guardian, or custodian as the result of action taken pursuant to section 232.78 or 232.79, the court shall hold a hearing within ten days of the date of temporary removal to determine whether the temporary removal should be continued.

Sec. 9. Section 232.96, subsection 10, Code 1999, is amended to read as follows:

10. If the court enters an order adjudicating the child to be a child in need of assistance, the court, if it has not previously done so, may issue an order authorizing temporary removal of the child from the child's home as set forth in section 232.95, subsection 2, paragraph "a", pending a final order of disposition. The order shall include ~~a~~ both of the following:

a. A statement that the temporary removal is the result of a determination that the child remaining in the child's home would be contrary to the welfare of the child, and that reasonable efforts have been made to prevent or eliminate the need for removal of the child from the child's home.

b. A statement informing the child's parent that the consequences of a permanent removal may include termination of the parent's rights with respect to the child.

Sec. 10. Section 232.102, subsection 10, paragraph a, unnumbered paragraph 1, Code 1999, is amended to read as follows:

As used in this section, "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 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. 11. Section 232.104, subsection 1, paragraph a, subparagraph (2), Code 1999, is amended to read as follows:

(2) For an order entered under section 232.102, for which the court has waived reasonable efforts requirements under section 232.102, subsection ~~11~~ 12, the permanency hearing shall be held within thirty days of the date the requirements were waived.

Sec. 12. Section 232.104, subsection 1, paragraph c, Code 1999, is amended to read as follows:

c. Reasonable notice of a permanency hearing in a case of juvenile delinquency shall be provided pursuant to section 232.37. 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. Upon completion of the hearing the court shall enter written findings and make a determination ~~based upon the permanency plan which will best serve the child's individual interests at that time~~ 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 other provisions of that permanency plan.

Sec. 13. Section 237.15, subsection 1, Code 1999, is amended by striking the subsection and inserting in lieu thereof the following:

1. "Case permanency plan" means the same as defined in section 232.2, subsection 4, except the plan shall also include the following:

a. The efforts to place the child with a relative.

b. The rationale for an out-of-state placement, and the efforts to prevent such placement, if the child has been placed out-of-state.

c. Time frames to meet the stated permanency goal and short-term objectives.

DIVISION IV
STATE CHILD CARE ASSISTANCE

Sec. 14. Section 237A.1, Code Supplement 1999, is amended by adding the following new subsection:

NEW SUBSECTION. 12A. "Poverty level" means the poverty level defined by the most recently revised poverty income guidelines published by the United States department of health and human services.

Sec. 15. NEW SECTION. 237A.13 STATE CHILD CARE ASSISTANCE.

1. A state child care assistance program is established in the department to assist children in families who meet eligibility guidelines and are described by any of the following circumstances:

a. The child's parent, guardian, or custodian is participating in approved academic or vocational training.

b. The child's parent, guardian, or custodian is seeking employment. Eligibility for assistance while seeking employment shall be limited to thirty days during a twelve-month period.

c. The child's parent, guardian, or custodian is employed and the family income meets income requirements.

d. The child's parent, guardian, or custodian is absent for a limited period of time due to hospitalization, physical illness, or mental illness.

e. The child needs protective services to prevent or alleviate child abuse or neglect.

2. Services under the program may be provided in a licensed child care center, a registered group child care home, a registered family child care home, the home of a relative, the child's own home, an unregistered family child care home, or in a facility exempt from licensing or registration.

3. The department shall set reimbursement rates as authorized by appropriations enacted for payment of the reimbursements. The department shall conduct a statewide reimbursement rate survey to compile information on each county and the survey shall be conducted at least every two years. The department shall set rates in a manner so as to provide incentives for an unregistered provider to become registered.

4. The department shall not apply waiting list requirements to any of the following persons:

a. Persons deemed to be eligible for benefits under the state child care assistance program in accordance with section 239B.24.

b. A family that is receiving state child care assistance at the time a child is born into the family. The newborn child shall be approved for services when the family reports the birth of the child.

c. Children who need protective services to prevent or alleviate child abuse or neglect.

5. Based upon the availability of the funding appropriated for state child care assistance for a fiscal year, the department shall establish waiting lists for state child care assistance in descending order of prioritization as follows:

a. Families with an income at or below one hundred percent of the federal poverty level whose members are employed at least twenty-eight hours per week, and parents with a family income at or below one hundred percent of the federal poverty level who are under the age of twenty-one years and are participating in an educational program leading to a high school diploma or the equivalent.

b. Parents with a family income at or below one hundred percent of the federal poverty level who are under the age of twenty-one years and are participating, at a satisfactory level, in an approved training program or in an educational program.

c. Families with an income of more than one hundred percent but not more than one hundred forty percent of the federal poverty level whose members are employed at least twenty-eight hours per week.

d. Families with an income at or below one hundred seventy-five percent of the federal poverty level whose members are employed at least twenty-eight hours per week with a special needs child as a member of the family.

6. Nothing in this section shall be construed as 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 or other eligibility circumstance addressed in this section. Any state obligation to provide services pursuant to this section is limited to the extent of the funds appropriated for the purposes of state child care assistance.

Sec. 16. Section 239B.24, subsection 1, Code Supplement 1999, is amended to read as follows:

1. The following persons are deemed to be eligible for benefits under the state child care assistance program administered by the department in accordance with section 237A.13, notwithstanding the program's eligibility requirements or any waiting list:[2]

Sec. 17. CHILD CARE REIMBURSEMENT ALTERNATIVES. The department of human services shall review alternatives for applying child care reimbursement rates on a county, cluster, and regional basis. The department shall prepare a report concerning the review, including findings and recommendations. The report shall be submitted to the members of the joint appropriations subcommittee on human services, legislative fiscal bureau, and legislative service bureau on or before December 15, 2000.

Approved April 7, 2000

CHAPTER 1068

WATER QUALITY INITIATIVES

S.F. 2371

AN ACT relating to the establishment of a water quality initiative program by the department of agriculture and land stewardship and the department of natural resources, defining and providing for the use of credible data for quality control and assurance procedures, and providing for other properly related matters, and providing an applicability date.

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

Section 1. NEW SECTION. 466.1 SHORT TITLE.

This chapter shall be known and may be cited as "Initiative on Improving Our Watershed Attributes (I on IOWA)".

Sec. 2. NEW SECTION. 466.2 LEGISLATIVE GOAL.

The goal of this chapter is to develop a comprehensive water quality program that will result in water quality improvements while reducing proposed regulatory impacts. The program shall use information, education, monitoring, technical assistance, data gathering

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[2] See chapter 1232, §91 herein

and evaluation, incentives, and more efficient issuance of permits. The program is expected to have a menu of initiatives and approaches to appeal to a broad audience of participants and shall be coordinated so that individual initiatives work toward the objective of improved water quality. The departments of agriculture and land stewardship and natural resources shall work cooperatively with federal agencies to obtain waivers and changes in rules and procedures at national and state levels to improve the federal programs' environmental and economic performance for Iowans. State agencies shall collaborate with other state agencies to attain the overall goal of improved water quality. The state department of transportation and the department of natural resources shall collaborate to provide for the preservation of topsoil, erosion control, water impoundment during highway construction and reconstruction, and restoration and management of roadside right-of-way for prairie restoration, wildlife habitat, and erosion control.

Sec. 3. NEW SECTION. 466.2A IOWA CLEAN WATER AWARD.

An Iowa clean water award is created. The governor and the general assembly shall give the award annually to a city or other political subdivision which has met criteria established by the department of natural resources and the department of agriculture and land stewardship identifying exemplary efforts to improve water quality within its jurisdiction.

Sec. 4. NEW SECTION. 466.3 CONSERVATION BUFFER STRIP PROGRAM.

1. As used in this section, "conservation buffer strip" means a riparian buffer, filter strip, waterway, contour buffer strip, shallow water area for wildlife, field border, or any vegetative barrier on private land that meets the criteria established by the United States department of agriculture, natural resources conservation service.

2. a. The department of agriculture and land stewardship, in consultation with the department of natural resources, shall establish a program to accelerate the United States department of agriculture's program to install conservation buffer strips in this state.

b. The department of agriculture and land stewardship shall request waivers from the United States department of agriculture to initiate projects that reward landowners maintaining current conservation practices. The goal of the projects is to discourage the destruction of existing conservation buffer strips and to monetarily reward landowners who maintain quality conservation practices. If the waivers are granted, up to twenty-five percent of the program resources shall be committed to establishing projects.

c. The department of agriculture and land stewardship shall request a waiver from the United States department of agriculture for the purpose of establishing that a person who is subject to a twenty-five percent reduction in conservation buffer strip payments due to grazing, shall be allowed ninety days to graze animals.

d. The department of natural resources shall establish a prairie seed harvest program to assist in the restoration of prairies and provide for private land stewardship and public resource management through assistance with the implementation of buffer and filter strip practices, and public or private habitat development and management. The department shall carry out these efforts through landowner contacts and cooperation with private and public organizations.

e. The five-year goal of the conservation buffer strip program shall be to meet the objective of water quality improvement by enrolling an additional four hundred seven thousand five hundred acres.

Sec. 5. NEW SECTION. 466.4 CONSERVATION RESERVE ENHANCEMENT PROGRAM.

1. A conservation reserve enhancement program is established within the department of agriculture and land stewardship to restore or construct wetlands for the purposes of intercepting tile line runoff, reducing nutrient loss, improving water quality, and enhancing agricultural production practices. The program shall be directed primarily, but not exclusively, toward the tile-drained areas of the state.

2. The department of agriculture and land stewardship shall request the assistance of and consult with the United States department of agriculture natural resources conservation

service and farm service agency to implement the conservation reserve enhancement program. The department shall also consult with county boards of supervisors, county conservation boards, drainage district representatives, department of natural resources, and soil and water conservation districts affected by the implementation of the conservation reserve enhancement program. The department shall also collaborate with other public agencies and private organizations to develop wetland habitat and related projects to improve water quality.

3. The department of agriculture and land stewardship shall maintain a record of all wetlands established pursuant to the conservation reserve enhancement program including any conditions that may apply to the landowner's right to remove the wetland after the provisions of the conservation reserve enhancement program contract or easement are concluded.

4. When establishing a wetland under this subsection, the department of agriculture and land stewardship shall be governed by the following requirements:

a. Wetland construction or restoration shall not damage the value of property in any public or private drainage system without the property owner's consent.

b. Wetland construction or restoration shall improve water quality and provide aesthetic and habitat benefits.

c. Wetland construction or restoration under this section may be used to mitigate wetland removal by the landowner if it meets the requirements of federal agencies with wetland jurisdictional authorities. Where practicable, priority shall be given to mitigating wetland removal within the same United States geological survey hydrologic unit code 8 watershed, but a watershed confines shall not limit the use of duly authorized wetland mitigation banks.

5. The five-year goal of the conservation reserve enhanced program is the establishment of thirty-two thousand five hundred acres of wetlands.[1]

Sec. 6. NEW SECTION. 466.5 WATER QUALITY MONITORING.

The department of natural resources shall operate water quality monitoring stations for the purpose of gathering information and data to establish benchmarks for water quality in this state.

Sec. 7. NEW SECTION. 466.6 WATER QUALITY PROTECTION PROGRAM.

1. The department of agriculture and land stewardship shall implement, in conjunction with the federal government and other entities, a program that provides multiobjective resource protections for flood control, water quality, erosion control, and natural resource conservation.

2. The department of agriculture and land stewardship shall implement 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. A demonstration program under this subsection may complement, but shall not duplicate, projects conducted by Iowa state university extension service. The demonstration program shall be designed to concentrate on management techniques in both the livestock and crop genres and shall be offered to farm operators through an educational setting and demonstration projects. The demonstration program shall be offered in conjunction with the community colleges, Iowa state university, and private farmer demonstrations. Continuing education units shall be offered. The educational program shall be offered at no cost to farm operators who file a schedule F with the Internal Revenue Service and do not have permitted livestock facilities or are certified under a manure management plan.

3. The department of agriculture and land stewardship shall provide financial assistance for the establishment of permanent soil and water conservation practices.

4. The department of natural resources shall establish a program to assist homeowners residing outside the boundaries of a city with improving on-site wastewater systems. The department shall adopt rules to administer the on-site wastewater system program. At a minimum, the rules shall determine criteria for enrollment into the program, identify methods

[1] See chapter 1232, §75 herein

and tools available for making and securing loans, establish limits for loan amounts and terms, and provide assistance to county environmental health officials to inspect on-site systems. The department of natural resources shall report to the general assembly on the progress of the on-site wastewater system program. Notwithstanding section 8.33, unencumbered or unobligated funds remaining from the funds appropriated for this subsection shall not revert and shall be available for expenditure during subsequent fiscal years.

5. The department of natural resources shall provide local watershed managers with geographic information system data for their use in developing, monitoring, and displaying results of their watershed work. The local watershed data shall be considered public records and are accessible to the public pursuant to chapter 22.

6. The department of natural resources shall develop a program that provides support to local volunteer management efforts to the different programs concerned with water quality. The department shall assist in coordinating and tracking of the volunteer component of these programs to increase efficiency and avoid duplication of efforts in water quality monitoring and watershed improvement.

7. The department of natural resources shall provide for activities supporting the analysis of water quality monitoring data for trends and for the preparation and presentation of data to the public.

8. The department of natural resources shall contract to assist its staff with the review of national pollutant discharge elimination system permits.

9. The department of natural resources shall expand floodplain protection education to better inform local officials that make decisions with regard to floodplain management.

10. The department of natural resources shall continue the establishment of an effective and efficient method of developing a total maximum daily load program, based on information gathered on other states' programs and investigation into alternative methods for satisfying the requirements.

Sec. 8. Section 161C.2, subsection 1, Code 1999, is amended to read as follows:

1. a. Each soil and water conservation district, alone and whenever practical in conjunction with other districts, shall carry out district-wide and multiple-district projects to support water protection practices in the district or districts, including projects to protect this state's groundwater and surface water from point and nonpoint sources of contamination, including but not limited to contamination by agricultural drainage wells, sinkholes, sedimentation, or chemical pollutants.

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

Sec. 9. Section 455B.171, Code 1999, is amended by adding the following new subsections:

NEW SUBSECTION. 10A. "Credible data" means scientifically valid chemical, physical, or biological monitoring data collected under a scientifically accepted sampling and analysis plan, including quality control and quality assurance procedures. Data dated more than five years before the department's date of listing or other determination under section 455B.194, subsection 1, shall be presumed not to be credible data unless the department identifies compelling reasons as to why the data is credible.

NEW SUBSECTION. 14A. "Historical data" means data collected more than five years before the department's date of listing or other determination under section 455B.194, subsection 1.

NEW SUBSECTION. 19A. "Naturally occurring condition" means any condition affecting water quality which is not caused by human influence on the environment including, but not limited to, soils, geology, hydrology, climate, wildlife influence on the environment, and water flow with specific consideration given to seasonal and other natural variations.

NEW SUBSECTION. 31A. "Section 303(d) list" means any list required under 33 U.S.C. § 1313(d).

NEW SUBSECTION. 31B. "Section 305(b) list" means any report or list[2] required under 33 U.S.C. § 1315(b).

NEW SUBSECTION. 39A. "Total maximum daily load" means the same as in the federal Water Pollution Control Act.

Sec. 10. NEW SECTION. 455B.193 QUALIFICATIONS FOR COLLECTION OF CREDIBLE DATA.

For purposes of this part, all of the following shall apply:

1. Data is not credible data unless the data originates from studies and samples collected by the department, a professional designee of the department, or a qualified volunteer. For purposes of this subsection, "professional designee" includes governmental agencies other than the department, and a person hired by, or under contract for compensation with, the department to collect or study data.

2. All information submitted by a qualified volunteer shall be reviewed and approved or disapproved by the department. The qualified volunteer shall submit a site specific plan with data which includes information used to obtain the data, the sampling and analysis plan, and quality control and quality assurance procedures used in the monitoring process. The qualified volunteer must provide proof to the department that the water monitoring plan was followed. The department shall review all data collected by a qualified volunteer, verify the accuracy of the data collected by a qualified volunteer, and determine that all components of the water monitoring plan were followed.

3. The department shall retain all information submitted by a qualified volunteer submitting the information for a period of not less than ten years from the date of receipt by the department. All information submitted shall be a public record.

4. The department shall adopt rules establishing requirements for a person to become a qualified volunteer.

The department of natural resources shall develop a methodology for water quality assessments as used in the section 303(d) listings[3] and assess the validity of the data.

Sec. 11. NEW SECTION. 455B.194 CREDIBLE DATA REQUIRED.

1. The department shall use credible data when doing any of the following:

a. Developing and reviewing any water quality standard.

b. Developing any statewide water quality inventory or other water assessment report.

c. Determining whether any water of the state is to be placed on or removed from any section 303(d) list.

d. Determining whether any water of the state is supporting its designated use or other classification.

e. Determining any degradation of a water of the state under 40 C.F.R. § 131.12.

f. Establishing a total maximum daily load for any water of the state.

2. Notwithstanding subsection 1, credible data shall not be required for any section 305(b) report and credible data shall not be required for the establishment of a designated use or other classification of a water of the state.

3. This section shall not be construed to require credible data as defined in section 455B.171, subsection 10A, in order for the department to bring an enforcement action for an illegal discharge.

Sec. 12. NEW SECTION. 455B.195 USE OR ANALYSIS OF CREDIBLE DATA.

1. For any use or analysis of credible data described in section 455B.194, subsection 1, all of the following shall apply:

a. The use of credible data shall be consistent with the requirements of the federal Water Pollution Control Act, 33 U.S.C. § 1251 et seq.

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[2] See chapter 1232, §72 herein

[3] See chapter 1232, §73 herein

b. The data quality for removal of water of the state from any list of impaired waters including any section 303(d) list shall be the same as the data quality for adding a water to that list.

c. A water of the state shall not be placed on any section 303(d) list if the impairment is caused solely by violations of national pollutant discharge elimination system program permits or stormwater permits issued pursuant to section 455B.103A and the enforcement of the pollution control measures is required.

d. A water of the state shall not be placed on any section 303(d) list if the data shows an impairment, but existing technology-based effluent limits or other required pollution control measures are adequate to achieve applicable water quality standards.

e. If a pollutant causing an impairment is unknown, the water of the state may be placed on a section 303(d) list. However, the department shall continue to monitor the water of the state to determine the cause of impairment before a total maximum daily load is established for the water of the state and a water of the state listed with an unknown status shall retain a low priority for a total maximum daily load development until the cause of the impairment is determined unless the department, after taking into consideration the use of the water of the state and the severity of the pollutant, identifies compelling reasons as to why the water of the state should not have a low priority.

f. When evaluating the waters of the state, the department shall develop and maintain three separate listings including a section 303(d) list, a section 305(b) report, and a listing for which further investigative monitoring is necessary. The section 305(b) report shall be a summary of all potential impairments for which credible data is not required. If credible data is not required for a section 305(b) report, the placement of a water of the state on any section 305(b) report alone is not sufficient evidence for the water of the state's placement on any section 303(d) list. When developing a section 303(d) list, the department is not required to use all data, but the department shall assemble and evaluate all existing and readily available water quality-related data and information. The department shall provide documentation to the regional administrator of the federal environmental protection agency to support the state's determination to list or not to list its waters.

g. The department shall take into consideration any naturally occurring condition when placing or removing any water of the state on any section 303(d) list, and establishing or allocating responsibility for a total maximum daily load.

h. Numerical standards shall have a preference over narrative standards. A narrative standard shall not constitute the basis for determining an impairment unless the department identifies specific factors as to why a numeric standard is not sufficient to assure adequate water quality.

i. If the department has obtained credible data for a water of the state, the department may also use historical data for that particular water of the state for the purpose of determining whether any trends exist for that water of the state.

2. This section shall not be construed to require or authorize the department to perform any act listed in section 455B.194, subsection 1, not otherwise required or authorized by applicable law.

Sec. 13. LEGISLATIVE STUDY. The legislative council is requested to establish an interim study relating to the use of plant nutrients on Iowa soil. The committee is directed to submit its findings, with any recommendations, in a report to the general assembly not later than January 15, 2001.

Sec. 14. APPLICABILITY OF SECTION 303(d) LISTS. This Act takes effect July 1, 2000. However, any requirements under this Act which apply to a section 303(d) list shall not apply for the section 303(d) list for the year 2000, but any requirements shall take effect for all section 303(d) lists created after the year 2000 list.

Approved April 7, 2000

CHAPTER 1069

REAL ESTATE TITLE ACTIONS — CERTAIN OLDER CLAIMS

H.F. 2254

AN ACT relating to actions on certain older claims to real estate.

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

Section 1. Section 614.19, Code 1999, is amended to read as follows:

614.19 INAPPLICABILITY OF PROVISION REGARDING MINORS AND PERSONS WITH MENTAL ILLNESS.

The provisions of section 614.8 as to the rights of minors and persons with mental illness shall not be applicable against the provisions of sections 614.17, 614.17A, 614.18, and 614.20.

Sec. 2. Section 614.22, Code 1999, is amended to read as follows:

614.22 ACTION AFFECTING ANCIENT DEEDS.

1. An action shall not be maintained to set aside, cancel, annul, declare void or invalid, or to redeem from a tax deed, guardian's deed, executor's deed, administrator's deed, receiver's deed, referee's deed, assignee's deed or sheriff's deed which has been recorded in the office of the recorder of the county or counties in this state in which the land described in the deed is situated prior to January 1, 1980, unless the action is commenced prior to January 1, 1992, and if an action to set aside, cancel, annul, declare void or invalid, or to redeem from the deed is not commenced prior to January 1, 1992, then the deed and all the proceedings upon which the deed is based are valid and unimpeachable and effective to convey title as stated in the deed, without exception for infancy, mental illness, absence from the state, or other disability or cause; provided that this ~~section~~ subsection and section 614.23 do not apply to real property described in a deed which is not ~~on July 1, 1991,~~ in the possession of those claiming title under the deed.

2. On and after January 1, 1992, an action shall not be maintained to set aside, cancel, annul, ~~or~~ declare void or invalid, or to redeem from a tax deed, ~~and an action shall not be maintained to redeem from such~~ guardian's deed, executor's deed, administrator's deed, receiver's deed, referee's deed, assignee's deed, or sheriff's deed, if the deed has been recorded in the office of the recorder for more than ten years. The deed must be recorded in the office of the recorder of the county or counties in which the land described in the deed is situated. If an action under this subsection is not commenced within ten years of the recording of the deed, then the deed and all proceedings upon which the deed is based are valid and unimpeachable and effective to convey title as stated in the deed, without exception for infancy, mental illness, absence from the state, or other disability or cause. ~~As used in this subsection "deed" means a tax deed, guardian's deed, executor's deed, administrator's deed, receiver's deed, referee's deed, assignee's deed, or sheriff's deed.~~

However, this subsection and section 614.23 do not apply to real property described in ~~any~~ a deed which is ~~for more than ten years~~ not in the possession of ~~a person~~ those claiming title under the deed.

Approved April 7, 2000

CHAPTER 1070

EDUCATION PRACTITIONER LICENSES — RENEWAL

H.F. 2279

AN ACT relating to the renewal date for a license issued by the board of educational examiners.

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

Section 1. Section 272.7, unnumbered paragraph 1, Code 1999, is amended to read as follows:

A license issued under board authority is valid for the period of time for which it is issued, unless the license is suspended or revoked. A license issued by the board is valid until ~~August 31 of~~ the last day of the practitioner's birth month in the year in which the license expires. No permanent licenses shall be issued. A person employed as a practitioner shall hold a valid license with an endorsement for the type of service for which the person is employed. This section does not limit the duties or powers of a school board to select or discharge practitioners or to terminate practitioners' contracts. A professional development program, except for a program offered by a practitioner preparation institution or area education agency and approved by the state board of education, must possess a valid license for the types of programs offered.

Sec. 2. EMERGENCY RULES. The board of educational examiners may adopt emergency rules to implement the provisions of section 272.7, unnumbered paragraph 1, as enacted by this Act.

Approved April 7, 2000

CHAPTER 1071

LOCAL HOUSING ASSISTANCE PROGRAMS — FUNDING

H.F. 2422

AN ACT relating to funding of the local housing assistance program and providing an effective date.

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

Section 1. Section 16.10, subsection 1, Code 1999, 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. 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. 2. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved April 7, 2000

CHAPTER 1072

ASBESTOS REMOVAL IN SCHOOLS — FUNDING

H.F. 2435

AN ACT repealing a provision authorizing the raising of an additional enrichment amount to fund asbestos removal projects.

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

Section 1. Section 279.52, unnumbered paragraph 1, Code 1999, is amended to read as follows:

The board of directors may pay the actual cost of an asbestos project from any funds in the general fund of the district, funds received from the physical plant and equipment levy, ~~funds received from the additional enrichment amount for an asbestos project in section 279.53,~~ or moneys obtained through a federal asbestos loan program, to be repaid from any of the funds specified in this subsection[1] over a three-year period.

Sec. 2. Section 298.14, unnumbered paragraphs 1 and 2, Code 1999, are amended to read as follows:

For each fiscal year, the cumulative total of the percents of surtax approved by the board of directors of a school district and collected by the department of revenue and finance under sections 257.21, 257.29, ~~279.54,~~ and 298.2, and the enrichment surtax under section 442.15, Code 1989, and an income surtax collected by a political subdivision under chapter 422D, shall not exceed twenty percent.

A school district income surtax fund is created in the office of treasurer of state. Income surtaxes collected by the department of revenue and finance under sections 257.21, 257.29, ~~279.54,~~ and 298.2 and section 442.15, Code 1989, shall be deposited in the school district income surtax fund to the credit of each school district. A separate accounting of each surtax, by school district, shall be maintained.

Sec. 3. Sections 279.53 and 279.54, Code 1999, are repealed.

Approved April 7, 2000

CHAPTER 1073

HAZARDOUS WASTE FACILITIES — PARTIAL SUSPENSION OF PERMITTING REQUIREMENTS

H.F. 2438

AN ACT extending a partial suspension of permitting requirements of facilities that deal with hazardous waste.

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

Section 1. 1987 Iowa Acts, chapter 233, section 204, subsection 5, as amended by 1989 Iowa Acts, chapter 311, section 21, as amended by 1990 Iowa Acts, chapter 1260, section 20, as amended by 1994 Iowa Acts, chapter 1198, section 30, is amended to read as follows:

5. It is the intention of the general assembly in adopting the appropriation under subsection 1 and this subsection to cease funding for the department's implementation of

[1] See chapter 1232, §64 herein

the federal Resource Conservation and Recovery Act permit program for hazardous waste facilities in this state. Section 455B.411, subsections 6, 9, and 10, section 455B.412, subsections 2 through 4, and sections 455B.413 through 455B.421 are suspended and do not apply as they pertain to that permit program, but are not suspended and do apply as they pertain to abandoned and uncontrolled sites, used oil, and site licensing under chapter 455B, division IV, part 6. The suspension provided by this subsection begins July 1, 1987 ~~and ends June 30, 1999~~.

Approved April 7, 2000

CHAPTER 1074

VACATION OF ROADS AND RIGHTS-OF-WAY

S.F. 2194

AN ACT relating to the vacation of roads and road rights-of-way.

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

Section 1. Section 306.11, Code 1999, is amended to read as follows:

306.11 HEARING — PLACE — DATE.

In proceeding to the vacation and closing of ~~any~~ a road, part thereof, or railroad crossing, the agency in control of ~~said~~ the road, or road system, shall fix a date for a hearing ~~thereon~~ on the vacation and closing in the county where ~~said~~ the road, or part thereof, or crossing, is located, and if located in more than one county, then in a county ~~wherein~~ in which any part of ~~such~~ the road or crossing is located. If the road to be vacated or changed is a secondary road located in more than one county, the boards of supervisors of ~~such~~ the counties, acting jointly, shall fix a date for a hearing ~~thereon~~ on the vacation or change in either or any of the counties where ~~such~~ the road, or part thereof, is located. If the proposed vacation is[1] part of a road right-of-way held by easement and will not change the existing traveled portion of the road or deny access to the road by adjoining landowners, a hearing is not required.

Sec. 2. Section 306.12, Code 1999, is amended to read as follows:

306.12 NOTICE — SERVICE.

Notice of the hearing under section 306.11 shall be published in a newspaper of general circulation in the county or counties where the road is located, not less than four nor more than twenty days prior to the date of hearing. The agency which is holding the hearing shall notify all adjoining property owners, all utility companies whose facilities adjoin the road right-of-way or are on the road right-of-way, and the department, boards of supervisors, or agency in control of affected state lands, of the time and place of the hearing, by certified mail~~, and shall notify all property owners located outside the boundary of a city, who own ten or more acres of land within one mile of the road, by regular mail~~.

Approved April 12, 2000

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[1] See chapter 1232, §65 herein

CHAPTER 1075

USE OF SCHOOL IMPROVEMENT TECHNOLOGY FUNDS

S.F. 2238

AN ACT relating to the use of school improvement technology program and school improvement technology block grant program moneys by school districts and area education agencies to employ or contract with information technology specialists.

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

Section 1. Section 256D.8, subsections 1 and 3, Code Supplement 1999, are amended to read as follows:

1. Except as provided in subsection 2, a school district shall expend funds received pursuant to section 256D.5, subsection 2, for the acquisition, lease, lease-purchase, installation, and maintenance of instructional technology equipment, including hardware and software, materials and supplies related to instructional technology, and staff development and training related to instructional technology, and shall establish priorities for the use of the funds. However, funds received by a school district pursuant to section 256D.5, subsection 2, shall not be expended to add a full-time equivalent position or otherwise increase staffing, unless the school district expends not more than ten percent of the funds received to employ or enter into a contract with information technology specialists to provide technical consulting and integration of technology in curriculum and instruction to advance student achievement.

3. Funds received by an area education agency pursuant to section 256D.6, subsection 2, shall be expended for the costs related to supporting school districts within the area served with technology planning and equipment, including hardware and software, materials and supplies related to instructional technology, employment of or contracting with information technology specialists to provide technical consulting and integration of technology in curriculum and instruction, and staff development and training related to instructional technology.

Sec. 2. Section 295.4, Code 1999, is amended to read as follows:

295.4 SCHOOL IMPROVEMENT AND TECHNOLOGY EXPENDITURES.

1. School districts, as defined in section 295.2, subsection 8, shall expend funds received pursuant to section 295.2 for the acquisition, lease, lease-purchase, installation, and maintenance of instructional technology equipment, including hardware and software, materials and supplies related to instructional technology, and staff development and training related to instructional technology, and shall establish priorities for the use of the funds. However, funds received by a school district pursuant to section 295.2 shall not be expended to add a full-time equivalent position or otherwise increase staffing, unless the school district expends not more than ten percent of the funds received to employ or enter into a contract with information technology specialists to provide technical consulting and integration of technology in curriculum and instruction to advance student achievement.

2. Funds received by an area education agency pursuant to section 295.2 shall be expended for the costs related to supporting school districts within the area served with technology planning and equipment, including hardware and software, materials and supplies related to instructional technology, employment of or contracting with information technology specialists to provide technical consulting and integration of technology in curriculum and instruction, and staff development and training related to instructional technology.

Approved April 12, 2000

CHAPTER 1076

INTERFERENCE WITH LAWFUL HUNTING, FISHING, OR FUR HARVESTING

S.F. 2300

AN ACT relating to interference with lawful hunting, fishing, or fur harvesting and providing a penalty.

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

Section 1. Section 481A.125, Code 1999, is amended by striking the section and inserting in lieu thereof the following:

481A.125 INTENTIONAL INTERFERENCE WITH LAWFUL HUNTING, FISHING, OR FUR-HARVESTING ACTIVITIES — PENALTIES.

1. As used in this section, "interfere with hunting, fishing, or fur-harvesting activities" means one or more of the following:

a. To intentionally place oneself in a location where a human presence may affect the behavior of a fur-bearing game animal, bird, or fish or the feasibility of killing or taking a fur-bearing game animal, bird, or fish with intent of obstructing or harassing another person who is lawfully hunting, fishing, or fur harvesting.

b. To intentionally create a visual, aural, olfactory, or physical stimulus for the purpose of affecting the behavior of a fur-bearing game animal, bird, or fish with the intent of obstructing or harassing another person who is lawfully hunting, fishing, or fur harvesting.

c. To intentionally affect the condition or alter the placement of personal property used for the purpose of killing or taking a fur-bearing game animal, bird, or fish with the intent of obstructing or harassing another person who is lawfully hunting, fishing, or fur harvesting.[1]

2. A person shall not interfere with the lawful hunting, fishing, or fur-harvesting activities of another person in an area where hunting, fishing, or fur harvesting is authorized by a custodian of public property or an owner or lessee of private property.

3. A person who commits:

a. A first offense of interfering with hunting, fishing, or fur-harvesting activities is guilty of a simple misdemeanor.

b. A second or subsequent offense is punishable as a serious misdemeanor.

4. If a person who commits interfering with hunting, fishing, or fur-harvesting activities possesses a license, certificate, or permit issued by the department, the license, certificate, or permit is subject to suspension or revocation pursuant to section 481A.134.

5. This subsection[2] shall not prohibit a landowner, tenant, or an employee of a landowner or tenant from performing normal agricultural operations or a law enforcement officer from performing official duties.

Approved April 12, 2000

[1] See chapter 1232, §76 herein

[2] See chapter 1232, §77 herein

CHAPTER 1077

PUBLIC RETIREMENT SYSTEMS

S.F. 2411

AN ACT relating to public retirement systems and providing implementation, applicability, and effective dates.

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

DIVISION I
PUBLIC SAFETY PEACE OFFICERS' RETIREMENT, ACCIDENT, AND DISABILITY SYSTEM

Section 1. Section 97A.5, subsection 1, Code 1999, is amended to read as follows:

1. BOARD OF TRUSTEES. A board of trustees of the Iowa department of public safety peace officers' retirement, accident, and disability system is created. The general responsibility for the proper operation of the system is vested in the board of trustees. The board of trustees is constituted as follows: The commissioner of public safety, who is chairperson of the board, the treasurer of state, ~~and~~ an actively engaged member of the system, to be chosen by secret ballot by the actively engaged members of the system, a retired member of the system, to be chosen by secret ballot by the retired members of the system, and a person appointed by the governor. The person appointed by the governor shall be an executive of a domestic life insurance company, an executive of a state or national bank operating within the state of Iowa, or an executive in the financial services industry, and shall be subject to confirmation by the senate. The members of the system and the person appointed by the governor shall serve for a term of two years.

Sec. 2. Section 97A.5, subsection 2, Code 1999, is amended to read as follows:

2. VOTING. Each trustee shall be entitled to one vote on said board and ~~two~~ three concurring votes shall be necessary for a decision by the trustees on any question at any meeting of said board.

Sec. 3. Section 97A.6, subsection 2, Code 1999, is amended to read as follows:

2. Allowance on service retirement.

a. Upon retirement from service prior to July 1, 1990, a member shall receive a service retirement allowance which shall consist of a pension which equals fifty percent of the member's average final compensation.

b. Upon retirement from service on or after July 1, 1990, but before July 1, 1992, a member shall receive a service retirement allowance which shall consist of a pension which equals fifty-four percent of the member's average final compensation.

c. Commencing July 1, 1992, but before July 1, 2000, the board of trustees shall increase the percentage multiplier of the member's average final compensation by an additional two percent each July 1 until reaching sixty percent of the member's average final compensation.

d. Upon retirement from service on or after July 1, 2000, a member shall receive a service retirement allowance which shall consist of a pension which equals sixty and one-half percent of the member's average final compensation.

~~d.~~ e. Commencing July 1, 1990, if the member has completed more than twenty-two years of creditable service, the service retirement allowance shall consist of a pension which equals the amount provided in paragraphs "b" ~~and~~, "c", or "d", plus an additional percentage as set forth below:

(1) For a member who terminates service, other than by death or disability, on or after July 1, 1990, but before July 1, 1991, and who does not withdraw the member's contributions pursuant to section 97A.16, upon the member's retirement there shall be added three-tenths

percent of the member's average final compensation for each year of service over twenty-two years, excluding years of service after the member's fifty-fifth birthday. However, this subparagraph does not apply to more than eight additional years of service.

(2) For a member who terminates service, other than by death or disability, on or after July 1, 1991, but before October 16, 1992, and who does not withdraw the member's contributions pursuant to section 97A.16, upon the member's retirement there shall be added six-tenths percent of the member's average final compensation for each year of service over twenty-two years, excluding years of service after the member's fifty-fifth birthday. However, this subparagraph does not apply to more than eight additional years of service.

(3) For a member who terminates service, other than by death or disability, on or after October 16, 1992, but before July 1, 1996, and who does not withdraw the member's contributions pursuant to section 97A.16, upon the member's retirement there shall be added six-tenths percent of the member's average final compensation for each year of service over twenty-two years. However, this subparagraph does not apply to more than eight additional years of service.

(4) For a member who terminates service, other than by death or disability, on or after July 1, 1996, but before July 1, 1998, and who does not withdraw the member's contributions pursuant to section 97A.16, upon the member's retirement there shall be added one and one-half percent of the member's average final compensation for each year of service over twenty-two years. However, this subparagraph does not apply to more than eight additional years of service.

(5) For a member who terminates service, other than by death or disability, on or after July 1, 1998, but before July 1, 2000, and who does not withdraw the member's contributions pursuant to section 97A.16, upon the member's retirement there shall be added one and one-half percent of the member's average final compensation for each year of service over twenty-two years. However, this subparagraph does not apply to more than ten additional years of service.

(6) For a member who terminates service, other than by death or disability, on or after July 1, 2000, and who does not withdraw the member's contributions pursuant to section 97A.16, upon the member's retirement there shall be added two and three-fourths percent of the member's average final compensation for each year of service over twenty-two years. However, this subparagraph does not apply to more than ten additional years of service.

Sec. 4. Section 97A.6, subsection 8, paragraph b, unnumbered paragraph 1, Code 1999, is amended to read as follows:

In lieu of the payment specified in paragraph "a", a beneficiary meeting the qualifications of paragraph "c" may elect to receive a monthly pension equal to one-twelfth of forty percent of the average final compensation of the member, but not less than an amount equal to ~~twenty~~ twenty-five percent of the monthly earnable compensation paid to an active member having the rank of senior patrol officer of the Iowa state patrol if the member was in service at the time of death. For a member not in service at the time of death, the pension shall be reduced as provided in subsection 1, paragraph "b".

Sec. 5. Section 97A.6, subsection 14, paragraph a, Code 1999, is amended to read as follows:

a. Effective July 1, 1980, and on each July 1 thereafter, the monthly pensions authorized in this section payable to retired members and to beneficiaries, except children of a deceased member, shall be adjusted as provided in this paragraph. The monthly pension of each retired member and each beneficiary shall be adjusted by adding to that monthly pension an amount equal to the amounts determined in subparagraphs (1) and (2). The adjusted monthly pension of a retired member shall not be less than the amount which was paid at the time of the member's retirement.

(1) An amount equal to the ~~following percentages of the~~ difference between the monthly earnable compensation payable to an active member of the department, of the same rank and position on the salary scale as was held by the retired or deceased member at the time of

the member's retirement or death, for July of the preceding year and the monthly earnable compensation payable to an active member of the department of the same rank and position on the salary scale for July of the year just beginning ~~shall be added to the monthly pension of each retired member and each beneficiary as follows~~ multiplied by the following applicable percentage:

~~(1)~~ (a) ~~Thirty~~ Forty percent for members receiving a service retirement allowance and for beneficiaries receiving a pension under subsection 9 of this section.

~~(2)~~ (b) ~~Thirty~~ Forty percent for members with five or more years of membership service who are receiving an ordinary disability retirement allowance.

~~(3)~~ (c) ~~Fifteen~~ Twenty-four percent for members with less than five years of membership service who are receiving an ordinary disability retirement allowance, and for beneficiaries receiving a pension under subsection 8 of this section.

~~(4)~~ (d) ~~Thirty-three and one-third~~ Forty percent for members receiving an accidental disability allowance.

~~The adjusted monthly pension shall not be less than the amount which was paid at the time of the member's retirement or death.~~

The amount added to the monthly pension of a surviving spouse receiving a pension under subsection 12, paragraph "a", of this section shall be equal to one-half the amount that would have been added to the monthly pension of the retired member under this subparagraph.

(2) The following applicable amount determined as follows:

(a) Fifteen dollars where the member's retirement date was less than five years prior to the effective date of the adjustment.

(b) Twenty dollars where the member's retirement date was at least five years, but less than ten years, prior to the effective date of the adjustment.

(c) Twenty-five dollars where the member's retirement date was at least ten years, but less than fifteen years, prior to the effective date of the adjustment.

(d) Thirty dollars where the member's retirement date was at least fifteen years, but less than twenty years, prior to the effective date of the adjustment.

(e) Thirty-five dollars where the member's retirement date was at least twenty years prior to the effective date of the adjustment.

As of the first of July of each year, the monthly pension payable to each surviving child under the provisions of subsections 8, 9, and 12 of this section shall be adjusted to equal six percent of the monthly earnable compensation payable on that July 1 to an active member having the rank of senior patrol officer of the Iowa state patrol.

Sec. 6. Section 97A.6, Code 1999, is amended by adding the following new subsection:

NEW SUBSECTION. 16. LINE OF DUTY DEATH BENEFIT.

a. If, upon the receipt of evidence and proof that the death of a member in service was the direct and proximate result of a traumatic personal injury incurred in the line of duty, the board of trustees decides that death was so caused, there shall be paid, to a person authorized to receive an accidental death benefit as provided in subsection 9, the amount of one hundred thousand dollars, which shall be payable in a lump sum.

b. A line of duty death benefit shall not be payable under this subsection if any of the following applies:

(1) The death resulted from stress, strain, occupational illness, or a chronic, progressive, or congenital illness, including, but not limited to, a disease of the heart, lungs, or respiratory system, unless a traumatic personal injury was a substantial contributing factor to the member's death.

(2) The death was caused by the intentional misconduct of the member or by the member's intent to cause the member's own death.

(3) The member was voluntarily intoxicated at the time of death.

(4) The member was performing the member's duties in a grossly negligent manner at the time of death.

(5) An individual who would otherwise be entitled to a benefit under this subsection was, through the individual's actions, a substantial contributing factor to the member's death.

Sec. 7. Section 97A.8, subsection 1, paragraph b, Code 1999, is amended to read as follows:

b. On the basis of the rate of interest and of the mortality, interest, and other tables adopted by the board of trustees, the board of trustees, upon the advice of the actuary hired by the board for that purpose, shall make each valuation required by this chapter and shall immediately after making such valuation, determine the "normal contribution rate". The normal contribution rate shall be the rate percent of the earnable compensation of all members obtained by deducting from the total liabilities of the fund the sum of the amount of the funds in hand to the credit of the fund and dividing the remainder by one percent of the present value of the prospective future compensation of all members as computed on the basis of the rate of interest and of mortality and service tables adopted by the board of trustees, all reduced by the employee contribution made pursuant to this subsection. However, the normal rate of contribution shall not be less than seventeen percent. The normal rate of contribution shall be determined by the board of trustees after each valuation. To assist in determining the normal rate of contribution, the board of trustees may adopt a smoothing method for valuing the assets of the system. The smoothing method is designed to reduce changes in the normal contribution rate which could result from fluctuations in the market value of the assets of the system.

Sec. 8. Section 97A.8, subsection 1, paragraph c, unnumbered paragraph 2, Code 1999, is amended by striking the unnumbered paragraph.

Sec. 9. EFFECTIVE DATE — RETROACTIVE APPLICABILITY. Section 4 of this Act, amending section 97A.6, subsection 8, paragraph "b", being deemed of immediate importance, takes effect upon enactment and is retroactively applicable to July 1, 1996, and is applicable on and after that date.

DIVISION II
IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM (IPERS)

Sec. 10. Section 97B.1A, Code 1999, is amended by adding the following new subsection:

NEW SUBSECTION. 2A. "Accumulated employer contributions" means an amount equal to the total obtained as of any date, by accumulating each individual contribution by the employer for the member with interest plus interest dividends as provided in section 97B.70, for all completed calendar years and for any completed calendar year for which the interest dividend has not been declared and for completed months of partially completed calendar years, compounded as provided in section 97B.70.

Sec. 11. Section 97B.1A, subsection 8, paragraph a, subparagraph (1), Code 1999, is amended to read as follows:

(1) Elective officials in positions for which the compensation is on a fee basis, elective officials of school districts, elective officials of townships, and elective officials of other political subdivisions who are in part-time positions. An elective official covered under this chapter may terminate membership under this chapter by informing the department in writing of the expiration of the member's term of office or by informing the department of the member's intent to terminate membership for employment as an elective official and establishing that the member has a bona fide termination of employment from all employment covered under this chapter other than as an elective official and that the member has filed a completed application for benefits form with the department. A county attorney is an employee for purposes of this chapter whether that county attorney is employed on a full-time or part-time basis.

Sec. 12. Section 97B.1A, subsection 8, paragraph a, Code 1999, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (12) Persons employed by a municipal water utility or waterworks that has established a pension and annuity retirement system for its employees pursuant to chapter 412.

Sec. 13. Section 97B.1A, subsection 8, paragraph b, subparagraph (3), Code 1999, is amended to read as follows:

(3) Employees hired for temporary employment of less than six consecutive months or one thousand forty hours in a calendar year. An employee who works for an employer for six or more consecutive months ~~in a calendar year~~ or who works for an employer for more than one thousand forty hours in a calendar year is not a temporary employee under this subparagraph. Adjunct instructors are temporary employees for the purposes of this chapter. As used in this section, unless the context otherwise requires, "adjunct instructors" means instructors employed by a community college or a university governed by the state board of regents without a continuing contract, whose teaching load does not exceed one-half time for two full semesters or three full quarters per calendar year.

Sec. 14. Section 97B.1A, Code 1999, is amended by adding the following new subsection:

NEW SUBSECTION. 14A. "Member account" means the account established for each member and includes the member's accumulated contributions and the member's share of the accumulated employer contributions as provided in section 97B.53. "Member account" does not mean the supplemental account for active members.

Sec. 15. Section 97B.1A, Code 1999, is amended by adding the following new subsection:

NEW SUBSECTION. 22A. "Supplemental account for active members" or "supplemental account" means the account established for each active member under section 97B.49H.

Sec. 16. Section 97B.1A, subsection 24, paragraph a, Code 1999, is amended to read as follows:

a. "Three-year average covered wage" means, for a member who retires prior to July 1, 2003, a member's covered wages averaged for the highest three years of the member's service, except as otherwise provided in this subsection. The highest three years of a member's covered wages shall be determined using calendar years. However, if a member's final quarter of a year of employment does not occur at the end of a calendar year, the department may determine the wages for the third year by computing the average quarter of all quarters from the member's highest calendar year of covered wages not being used in the selection of the two highest years and using the computed average quarter for each quarter in the third year in which no wages have been reported in combination with the final quarter or quarters of the member's service to create a full year. However, the department shall not use the member's final quarter of wages if using that quarter would reduce the member's three-year average covered wage. If the three-year average covered wage of a member exceeds the highest maximum covered wages in effect for a calendar year during the member's period of service, the three-year average covered wage of the member shall be reduced to the highest maximum covered wages in effect during the member's period of service. Notwithstanding any other provision of this paragraph to the contrary, a member's wages for the third year as computed by this paragraph shall not exceed, by more than three percent, the member's highest actual calendar year of covered wages for a member whose first month of entitlement is January 1999 or later.

Sec. 17. Section 97B.1A, subsection 24, paragraph b, subparagraph (4), Code 1999, is amended to read as follows:

(4) For a member who retires on or after January 1, 2000, but before January 1, ~~2003~~ 2001, and whose three-year average covered wage at the time of retirement exceeds ~~fifty-five~~ sixty-five thousand dollars, the member's covered wages averaged for the highest ~~seven~~ six years of the member's service or ~~fifty-five~~ sixty-five thousand dollars, whichever is greater.

Sec. 18. Section 97B.1A, subsection 24, paragraph b, Code 1999, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (5) For a member who retires on or after January 1, 2001, but before January 1, 2002, and whose three-year average covered wage at the time of retirement exceeds seventy-five thousand dollars, the member's covered wages averaged for the highest six years of the member's service or seventy-five thousand dollars, whichever is greater.

Sec. 19. Section 97B.1A, subsection 24, Code 1999, is amended by adding the following new paragraph:

NEW PARAGRAPH. c. "Three-year average covered wage" means, for a member who retires on or after July 1, 2003, the greater of the member's covered wages averaged for a member's highest twelve consecutive quarters of service or the member's covered wages averaged for a member's highest three calendar years of service. The department shall adopt rules to implement this paragraph in accordance with the requirements of this chapter and the federal Internal Revenue Code.

Sec. 20. Section 97B.1A, subsection 26, paragraph a, Code 1999, is amended to read as follows:

a. (1) "Wages" means all remuneration for employment, including ~~the~~, but not limited to, any of the following:

(a) The cash value of ~~remuneration paid in a medium other than cash, but not including the cash value of remuneration paid in a medium other than cash as~~ wage equivalents not necessitated by the convenience of the employer. The ~~amount agreed upon by the employer and employee for remuneration paid in a medium other than cash~~ fair market value of such wage equivalents shall be reported to the department by the employer ~~and is conclusive of the value of the remuneration~~. ~~"Wages" does not include special lump sum payments made as payment for accrued sick leave or accrued vacation or payments made as an incentive for early retirement or as payments made upon dismissal, severance, or a special bonus payment.~~

(b) The remuneration paid to an employee before employee-paid contributions are made to plans qualified under sections 125, 129, 401, 403, 408, and 457 of the Internal Revenue Code. In addition, wages includes amounts that can be received in cash in lieu of employer-paid contributions to such plans, if the election is uniformly available and is not limited to highly compensated employees, as defined in section 414(q) of the Internal Revenue Code.

(c) ~~Wages for~~ For an elected official ~~means~~, other than a member of the general assembly, the total compensation received by the elected official, whether paid in the form of per diem or annual salary ~~received by an elected official~~, exclusive of expense and travel allowances.

(d) ~~Wages for~~ For a member of the general assembly, ~~means~~ the total compensation received by a member of the general assembly, whether paid in the form of per diem or annual salary, exclusive of expense and travel allowances paid to a member of the general assembly except as otherwise provided in this ~~paragraph~~ subparagraph subdivision. Wages includes per diem payments paid to members of the general assembly during interim periods between sessions of the general assembly. Wages also includes daily allowances to members of the general assembly for nontravel expenses of office during a session of the general assembly, but does not include the portion of the daily allowance which exceeds the maximum established by law for members from Polk county.

(e) Payments for compensatory time earned that are received in lieu of taking regular work hours off and when paid as a lump sum. However, "wages" does not include payments made in a lump sum for compensatory time earned in excess of two hundred forty hours per year.

(f) Employee contributions required under section 97B.11 and picked up by the employer under section 97B.11A.

(2) "Wages" does not include any of the following:

(a) The cash value of wage equivalents necessitated by the convenience of the employer.

(b) Payments made for accrued sick leave or accrued vacation leave that are not being used to replace regular work hours, whether paid in a lump sum or in installments.

(c) Payments made as an incentive for early retirement or as payment made upon dismissal or severance from employment, or a special bonus payment intended as an early retirement incentive, whether paid in a lump sum or in installments.

(d) Employer-paid contributions that cannot be received by the employee in cash and that are made to, and any distributions from, plans, programs, or arrangements qualified under section 117, 120, 125, 129, 401, 403, 408, or 457 of the Internal Revenue Code.[1]

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[1] See chapter 1171, §26 herein

(e) Employer-paid contributions for coverage under, or distributions from, an accident, health, or life insurance plan, program, or arrangement.

(f) Workers' compensation and unemployment compensation payments.

(g) Disability payments.

(h) Reimbursements of employee business expenses except for those expenses included as wages for a member of the general assembly.

(i) Payments for allowances made to an employee that are not included in an employee's federal taxable income except for those allowances included as wages for a member of the general assembly.

(j) Payments of damages, attorney fees, interest, and penalties made to satisfy a grievance or wage claim.

(k) Payments for services as an independent contractor.

(l) Payments made by an entity that is not an employer under this chapter.

(m) Payments made in lieu of any employer-paid group insurance coverage.

(n) Payments made for the difference between the costs of single and family insurance coverage.

Sec. 21. Section 97B.5, Code 1999, is amended to read as follows:

97B.5 STAFF.

Subject to other provisions of this chapter, the department may employ personnel as necessary for the administration of the system, including but not limited to a chief investment officer and a chief benefits officer. The maximum number of full-time equivalent employees specified by the general assembly for the department for administration of the system for a fiscal year shall not be reduced by any authority other than the general assembly. The staff shall be appointed pursuant to chapter 19A. The department shall not appoint or employ a person who is an officer or committee member of a political party organization or who holds or is a candidate for ~~an~~ a partisan elective public office. The department may employ attorneys and contract with attorneys and legal firms for the provision of legal counsel and advice in the administration of this chapter and chapter 97C. The department may execute contracts with investment advisors, consultants, and managers outside state government in the administration of this chapter. The department may delegate to any person such authority as it deems reasonable and proper for the effective administration of this chapter, and may bond any person handling moneys or signing checks under this chapter.

Sec. 22. Section 97B.9, unnumbered paragraph 1, Code 1999, is amended to read as follows:

~~Contributions unpaid on the date on which they are due and payable as prescribed by the department,~~ An employer shall ~~bear~~ be charged the greater of ten dollars per occurrence or interest at the combined interest and dividend rate required under section 97B.70 for the applicable calendar year~~, provided that the~~ for contributions unpaid on the date on which they are due and payable as prescribed by the department. The department may ~~prescribe fair and reasonable regulations pursuant to~~ adopt rules prescribing circumstances for which the interest or charge shall not accrue with respect to contributions required. Interest or charges collected pursuant to this section shall be paid into the Iowa public employees' retirement fund.

Sec. 23. Section 97B.9, subsection 4, Code 1999, is amended to read as follows:

4. Regardless of any potentially applicable statute of limitations, if the department finds that the employer or employee ~~or employer~~, or both, have erroneously underpaid contributions, the ~~employer shall pay the employer's share of contributions and interest and the interest assessed to the employee's share of contributions~~ department shall notify the employer and employee in writing of the total amount of the underpayment, including interest, and the employer's and employee's share of the underpayment. The department shall collect from the employer the total amount of the underpayment, including the employer's share, the employee's share, and the interest assessed to both shares of the underpayment,

regardless of whether the employee has reimbursed the employer for the employee's share of the underpayment. The employee shall be obligated to pay only the employee's share of the underpaid contributions, without interest, to the employer~~, who shall then remit them to the department~~. The employer may collect the employee's share of underpaid contributions from the employee or the employee's estate. The employer may collect the employee's share through a deduction from the employee's wages, or by maintaining a legal action against the employee or the employee's estate. For purposes of section 1526 of the federal Taxpayer Relief Act of 1997, eligible participants, as defined by section 1526, may make payments of contributions under this section without regard to the limitations of section 415(c)(1) of the federal Internal Revenue Code.

Sec. 24. Section 97B.11, unnumbered paragraph 2, Code 1999, is amended by striking the unnumbered paragraph.

Sec. 25. NEW SECTION. 97B.14A WAGE REPORTING.

An employer shall report wages of employees covered by this chapter to the department in a manner and form as prescribed by the department. If the wages reported by an employer appear to be a distortion of the normal wage progression pattern for an employee, the department may request that the employer provide documentation indicating that the wages were not misreported for the purposes of causing an increase in the retirement allowance or other payments authorized to be made by this chapter. If the department determines that the wages of an employee were misreported, the employer shall prepare and file wage adjustments allocating the wages to the proper wage reporting period.

Sec. 26. Section 97B.17, subsection 2, Code 1999, is amended to read as follows:

2. Records specifying amounts accumulated in members' ~~active~~ accounts and supplemental accounts.

Sec. 27. Section 97B.25, Code 1999, is amended to read as follows:

97B.25 APPLICATIONS FOR BENEFITS.

A representative designated by the chief benefits officer and referred to in this chapter as a retirement benefits ~~specialist~~ officer shall promptly examine applications for retirement benefits and on the basis of facts found shall determine whether or not the claim is valid. If the claim is valid, the retirement benefits ~~specialist~~ officer shall send a notification to the member stating the option the member has selected pursuant to ~~sections 97B.49A through 97B.49G, as applicable, or~~ section 97B.51, the month with respect to which benefits shall commence, and the monthly benefit amount payable. If the claim is invalid, the retirement benefits ~~specialist~~ officer shall promptly notify the applicant and any other interested party of the decision and the reasons. A retirement application shall not be amended or revoked by the member once the first retirement allowance is paid. A member's death during the first month of entitlement shall not invalidate an approved application.

Sec. 28. Section 97B.42A, Code 1999, is amended by adding the following new subsection:

NEW SUBSECTION. 3A. A person who is employed in a position as an employee as defined in section 97B.1A, subsection 8, paragraph "a", subparagraph (12), on July 1, 2000, and who has not elected out of coverage under this chapter prior to that date, shall begin coverage under the system on July 1, 2000, unless, on or before August 31, 2000, the person files an application with appropriate documentation to elect coverage under an alternative pension and annuity retirement system established pursuant to chapter 412. If a person elects coverage under the alternative pension and annuity retirement system, the period of time from July 1, 2000, until the date the person's election of coverage is effective shall not constitute service for purposes of coverage under this chapter and a wage adjustment shall be processed for the person based on any contributions collected pursuant to this chapter during that period of time and shall be credited pursuant to section 97B.10. A decision to elect coverage under an alternative pension and annuity retirement system established pursuant to chapter 412 under this subsection is irrevocable upon approval from the department.

A person who becomes a member of the Iowa public employees' retirement system pursuant to this subsection, and who has one or more years of covered wages, may purchase credit, pursuant to section 97B.73, for one or more quarters of service prior to August 1, 2000, in which the person was employed in a position as described by section 97B.1A, subsection 8, paragraph "a", subparagraph (12), but was not a member of the system.

Sec. 29. Section 97B.42A, subsection 4, Code 1999, is amended to read as follows:

4. A person who becomes a member of the system pursuant to subsection 3, or who is a member of the system, and who has one or more years of covered wages, may purchase credit, pursuant to section 97B.73, for one or more quarters of service prior to January 1, 1999, in which the person was employed in a position as described in section 97B.1A, subsection 8, paragraph "a", but was not a member of the system.

Sec. 30. Section 97B.44, Code 1999, is amended to read as follows:

97B.44 BENEFICIARY.

Each member shall designate on a form to be furnished by the department a beneficiary for death benefits payable under this chapter on the death of the member. The designation may be changed from time to time by the member by filing a new designation with the department. A designation or change in designation made by a member on or after July 1, 2000, shall contain the written consent of the member's spouse, if applicable. The designation of a beneficiary is not applicable if the member receives a refund of all contributions of the member. If a member who has received a refund of contributions returns to employment, the member shall file a new designation with the department.

If a member has not designated a beneficiary on a form furnished by the department, or if there are no surviving designated beneficiaries of a member, death benefits payable under this chapter shall be paid to the member's estate.

Sec. 31. Section 97B.48, subsection 1, Code 1999, is amended to read as follows:

1. Retirement allowances shall be paid monthly, except that an allowance of less than six hundred dollars a year may, at the member's option, be paid as a lump sum in an amount equal to the sum of the member's and employer's accumulated contributions and the retirement dividends standing to the member's credit before December 31, 1966. Receipt of the lump-sum payment by a member shall terminate any and all entitlement for the period of service covered of the member under this chapter and the member shall not be eligible to buy back the period of service.

Sec. 32. Section 97B.48, subsection 3, Code 1999, is amended to read as follows:

3. As of the first of the month in which a member attains the age of seventy years, the department shall provide written notification to the member that the member may commence receiving a retirement allowance regardless of the member's employment status. Prior to receiving a retirement allowance pursuant to this subsection, a member shall acknowledge in writing that the member was informed by the department of the consequences of electing to receive a retirement allowance pursuant to this subsection and that receipt of a retirement allowance under this subsection is optional. Upon termination from employment of a member receiving a retirement allowance pursuant to this subsection, the member is entitled to have the member's monthly retirement allowance recalculated using the applicable formula for determining a retirement allowance pursuant to sections 97B.49A through 97B.49G, as applicable, in place at the time of the member's first month of entitlement.

Sec. 33. Section 97B.48A, subsection 1, unnumbered paragraph 1, Code 1999, is amended to read as follows:

If a member who has not reached the member's sixty-fifth birthday and who has a bona fide retirement under this chapter is in regular full-time employment during a calendar year, the member's retirement allowance shall be reduced by fifty cents for each dollar the member earns over the limit provided in this subsection. However, employment is not full-time employment until the member receives remuneration in an amount in excess of ~~twelve~~ fourteen

thousand dollars for a calendar year, or an amount equal to the amount of remuneration permitted for a calendar year for persons under sixty-five years of age before a reduction in federal social security retirement benefits is required, whichever is higher. Effective the first of the month in which a member attains the age of sixty-five years, a retired member may receive a retirement allowance without a reduction after return to covered employment regardless of the amount of remuneration received.

Sec. 34. Section 97B.48A, subsection 3, Code 1999, is amended to read as follows:

3. Upon a retirement after reemployment, a retired member may have the retired member's retirement allowance redetermined under this section or section 97B.48, ~~sections 97B.49A through 97B.49H,~~ section 97B.50, or section 97B.51, whichever is applicable, based upon the addition of credit for the years of membership service of the employee after reemployment, the covered wage during reemployment, and the age of the employee after reemployment. The member shall receive a single retirement allowance calculated from both periods of membership service, one based on the initial retirement and one based on the second retirement following reemployment. If the total years of membership service and prior service of a member who has been reemployed equals or exceeds thirty, the years of membership service on which the original retirement allowance was based may be reduced by a fraction of the years of service equal to the number of years by which the total years of membership service and prior service exceeds thirty divided by thirty, if this reduction in years of service will increase the total retirement allowance of the member. The additional retirement allowance calculated for the period of reemployment shall be added to the retirement allowance calculated for the initial period of membership service and prior service, adjusted as provided in this subsection. The retirement allowance calculated for the initial period of membership service and prior service shall not be adjusted for any other factor than years of service. The retired member shall not receive a retirement allowance based upon more than a total of thirty years of service. Effective July 1, 1998, a redetermination of a retirement allowance as authorized by this subsection for a retired member whose combined service exceeds the applicable years of service for that member as provided in sections 97B.49A through 97B.49G shall have the determination of the member's reemployment benefit based upon the percentage multiplier as determined for that member as provided in sections 97B.49A through 97B.49G.

Sec. 35. Section 97B.48A, subsection 4, Code 1999, is amended to read as follows:

4. The department shall pay to the member the accumulated contributions of the member and <u>all of</u> the employer contributions, plus interest plus interest dividends as provided in section 97B.70, for all completed calendar years, compounded as provided in section 97B.70, on the covered wages earned by a retired member that are not used in the recalculation of the retirement allowance of a member. <u>A payment of contributions to a member pursuant to this subsection shall be considered a retirement payment and not a refund and the member shall not be eligible to buy back the period of reemployment service.</u>

Sec. 36. Section 97B.49B, subsection 1, paragraph a, Code 1999, is amended to read as follows:

a. "Applicable percentage" means <u>the greater of the following percentages:</u>

<u>(1)</u> ~~sixty~~ <u>Sixty</u> percent ~~or, for,~~

<u>(2)</u> <u>For</u> each active or inactive vested member retiring on or after July 1, 1996, <u>but before July 1, 2000,</u> sixty percent plus, if applicable, an additional one-fourth of one percentage point for each additional calendar quarter of eligible service beyond twenty-five years of service <u>for the member</u>, not to exceed a total of five additional percentage points.

<u>(3) For each active or inactive vested member retiring on or after July 1, 2000, but before July 1, 2001, sixty percent plus, if applicable, an additional one-fourth of one percentage point for each additional calendar quarter of eligible service beyond twenty-four years of service for the member, not to exceed a total of six additional percentage points.</u>

(4) For each active or inactive vested member retiring on or after July 1, 2001, but before July 1, 2002, sixty percent plus, if applicable, an additional one-fourth of one percentage point for each additional calendar quarter of eligible service beyond twenty-three years of service for the member, not to exceed a total of seven additional percentage points.

(5) For each active or inactive vested member retiring on or after July 1, 2002, but before July 1, 2003, sixty percent plus, if applicable, an additional one-fourth of one percentage point for each additional calendar quarter of eligible service beyond twenty-two years of service for the member, not to exceed a total of eight additional percentage points.

(6) For each active or inactive vested member retiring on or after July 1, 2003, sixty percent plus, if applicable, an additional three-eighths of one percentage point for each additional calendar quarter of eligible service beyond twenty-two years of service for the member, not to exceed a total of twelve additional percentage points.

Sec. 37. Section 97B.49B, subsection 1, Code 1999, is amended by adding the following new paragraph:

NEW PARAGRAPH. aa. "Applicable years of service" means the following:

(1) For each active or inactive vested member retiring on or after July 1, 1996, and before July 1, 2000, twenty-five.

(2) For each active or inactive vested member retiring on or after July 1, 2000, and before July 1, 2001, twenty-four.

(3) For each active or inactive vested member retiring on or after July 1, 2001, and before July 1, 2002, twenty-three.

(4) For each active or inactive vested member retiring on or after July 1, 2002, twenty-two.

Sec. 38. Section 97B.49B, subsection 1, paragraph c, Code 1999, is amended to read as follows:

c. "Fraction of years of service" means a number, not to exceed one, equal to the sum of the years of eligible service in a protection occupation divided by ~~twenty-five~~ the applicable years of service for the member.

Sec. 39. Section 97B.49B, subsection 1, paragraph d, Code 1999, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (7) An employee covered by the merit system as provided in chapter 19A whose primary duty is providing airport security and who carries or is licensed to carry a firearm while performing those duties.

Sec. 40. Section 97B.49D, subsection 1, paragraph b, Code 1999, is amended to read as follows:

b. One-twelfth of an amount equal to the applicable percentage of the member's three-year average covered wage multiplied by a fraction of years of service. The fraction of years of service for purposes of this paragraph shall be the actual years of service, not to exceed ~~twenty-five~~ the applicable years of service for the member as defined in section 97B.49B, earned in a position described in section 97B.49B, for which special service contributions were made, divided by ~~twenty-five~~ the applicable years of service for the member as defined in section 97B.49B. In calculating the fractions of years of service under the paragraph, a member shall not receive special service credit for years of service for which the member and the member's employer did not make the required special service contributions to the department.

Sec. 41. Section 97B.49F, subsection 1, paragraph b, subparagraph (2), subparagraph subdivision (a), Code 1999, is amended to read as follows:

(a) The percentage representing ~~eighty percent of~~ the percentage increase in the consumer price index published in the federal register by the federal department of labor, bureau of labor statistics, that reflects the percentage increase in the consumer price index for the twelve-month period ending June 30 of the year that the dividend is to be paid.

Sec. 42. Section 97B.49F, subsection 1, paragraph c, Code 1999, is amended to read as follows:

c. If a member eligible to receive a cost-of-living dividend dies before November 1 of a year, a cost-of-living dividend shall not be payable in November of that year in the name of the member. If a member dies on or after November 1, but before payment of a dividend is made in that month, the full amount of the retirement dividend for that year shall be paid in the member's name upon notification of the member's death.

Sec. 43. Section 97B.49F, subsection 2, paragraph a, Code 1999, is amended to read as follows:

a. Commencing January 1, 1999, all members who retired on or after July 1, 1990, and who have been retired for at least one year as of the date the dividend is payable, or a beneficiary or contingent annuitant of such a member who receives a monthly benefit, shall be eligible to receive a favorable experience dividend, payable on the last business day in January of each year pursuant to the requirements of this subsection. If the member, beneficiary, or contingent annuitant eligible to receive a favorable experience dividend dies before January 1 of a year, a favorable experience dividend shall not be payable in January of that year in the name of the member, beneficiary, or contingent annuitant. However, if the member, beneficiary, or contingent annuitant dies on or after January 1 but before the dividend is paid in that month, the full amount of the dividend payable in that month shall be paid in the name of the applicable member, beneficiary, or contingent annuitant, upon notification of death.

Sec. 44. Section 97B.49F, subsection 2, paragraph c, Code 1999, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (3A) Notwithstanding the provisions of this paragraph to the contrary, moneys credited to the reserve account in any applicable year shall not exceed an amount which, if credited to the reserve account, would exceed an amount that the system's actuary determines is sufficient to pay the maximum favorable experience dividend for each of the next following ten years, based on reasonable actuarial assumptions.

Sec. 45. Section 97B.49F, subsection 2, paragraph d, Code 1999, is amended to read as follows:

d. The favorable experience dividend is calculated by multiplying the ~~total of the~~ monthly ~~benefit payments of~~ retirement allowance payable to the retiree, beneficiary, or contingent annuitant for the previous ~~calendar year~~ December, or such other month as determined by the department, by twelve, and then multiplying that amount by the number of complete years the member has been retired or would have been retired if living as of the date the dividend is payable, and by the applicable percentage. For purposes of this paragraph, the applicable percentage is the percentage, not to exceed three percent, that the department determines shall be applied in calculating the favorable experience dividend if the department determines that the reserve account is sufficiently funded to make a distribution. In making its determination, the department shall consider, but not be limited to, the amounts credited to the reserve account, the distributions from the reserve account made in previous years, the likelihood of future credits to and distributions from the reserve account, and the distributions paid under subsection 1.

Sec. 46. Section 97B.49G, Code 1999, is amended by adding the following new subsection:

NEW SUBSECTION. 12. PROBATION AND PAROLE OFFICERS III — JULY 1994 - JULY 1998. The department shall establish and maintain additional contribution accounts for employees of judicial district departments of correctional services who were employed as parole officers III and probation officers III during any portion of the period from July 1, 1994, through June 30, 1998. A probation officer III or parole officer III who made contributions to the retirement fund during the period from July 1, 1994, through June 30, 1998, as a member of a protection occupation shall have credited to an additional contribution account

for that probation or parole officer an amount equal to the contributions made to the retirement fund in excess of 3.7 percent of the probation or parole officer's covered wages paid from July 1, 1994, through June 30, 1998, plus interest at the applicable statutory interest rates established in this chapter. Moneys deposited in an additional contribution account established pursuant to this section shall be payable in a lump sum to the probation or parole officer at retirement or upon request for a refund of moneys in the account. If the probation or parole officer dies prior to receipt of moneys in the account, the beneficiary designated by that probation or parole officer shall receive a lump sum payment of moneys in the account. The payment of moneys from the account created in this subsection shall not be annuitized. A probation officer III or parole officer III for which an account is established under this subsection shall not receive credit for eligible service as a member of a protection occupation for that service.

Sec. 47. Section 97B.49H, subsection 5, paragraph c, Code 1999, is amended to read as follows:

c. Upon retirement, the member shall elect to receive in a lump sum payment or in an annuity, in addition to any other payment provided by this chapter, all amounts credited to the member's supplemental account. The annuity provided under this section shall be payable in the same form, at the same time, and to the same persons, including beneficiaries and contingent annuitants, that the member elects for the payments under the other provisions of this chapter providing for the monthly payment of allowances. The amount of an annuity provided under this section, including amounts payable to beneficiaries and contingent annuitants, shall be calculated using the amount credited to the member's supplemental account as of the date of retirement, and the assumptions underlying the actuarial tables used to calculate optional allowances under section 97B.51.

Sec. 48. Section 97B.50, subsection 1, unnumbered paragraph 1, Code 1999, is amended to read as follows:

Except as otherwise provided in this section, a vested member who is at least fifty-five years of age, upon retirement prior to the normal retirement date ~~other than that specified in section 97B.45, subsection 4~~ for that member, is entitled to receive a monthly retirement allowance determined in the same manner as provided for normal retirement in sections 97B.49A, 97B.49E, and 97B.49G, reduced as follows:

Sec. 49. Section 97B.50, subsection 2, Code 1999, is amended to read as follows:

2. a. A vested member who retires from the system due to disability and commences receiving disability benefits pursuant to the federal Social Security Act, 42 U.S.C. § 423 et seq., and who has not reached the normal retirement date, shall receive benefits as selected under ~~sections 97B.49A through 97B.49G, as applicable~~ section 97B.51, and shall not have benefits reduced upon retirement as required under subsection 1 regardless of whether the member has completed thirty or more years of membership service. However, the benefits shall be suspended during any period in which the member returns to covered employment. This section takes effect July 1, 1990, for a member meeting the requirements of this paragraph who retired from the system at any time after July 4, 1953. Eligible members retiring on or after July 1, 2000, are entitled to the receipt of retroactive adjustment payments ~~back to July 1, 1990~~ for no more than thirty-six months immediately preceding the month in which written notice of retirement due to disability was submitted to the department, notwithstanding the requirements of subsection 4.

b. A vested member who retires from the system due to disability and commences receiving disability benefits pursuant to the federal Railroad Retirement Act, 45 U.S.C. § 231 et seq., and who has not reached the normal retirement date, shall receive benefits as selected under ~~sections 97B.49A through 97B.49G, as applicable~~ section 97B.51, and shall not have benefits reduced upon retirement as required under subsection 1 regardless of whether the member has completed thirty or more years of membership service. However, the benefits

shall be suspended during any period in which the member returns to covered employment. This section takes effect July 1, 1990, for a member meeting the requirements of this paragraph who retired from the system at any time since July 4, 1953. Eligible members retiring on or after July 1, 2000, are entitled to the receipt of retroactive adjustment payments ~~back to July 1, 1990~~ for no more than thirty-six months immediately preceding the month in which written notice of retirement due to disability was submitted to the department, notwithstanding the requirements of subsection 4.

Sec. 50. Section 97B.50, subsection 2, Code 1999, is amended by adding the following new paragraph:

NEW PARAGRAPH. c. A vested member who terminated service due to a disability, who has been issued payment for a refund pursuant to section 97B.53, and who subsequently commences receiving disability benefits as a result of that disability pursuant to the federal Social Security Act, 42 U.S.C. § 423 et seq. or the federal Railroad Retirement Act, 45 U.S.C. § 231 et seq., may receive credit for membership service for the period covered by the refund payment, upon repayment to the department of the actuarial cost of receiving service credit for the period covered by the refund payment, as determined by the department. For purposes of this paragraph, the actuarial cost of the service purchase shall be determined as provided in section 97B.74. The payment to the department as provided in this paragraph shall be made within ninety days after July 1, 2000, or the date federal disability payments commenced, whichever occurs later. For purposes of this paragraph, the date federal disability payments commence shall be the date that the member actually receives the first such payment, regardless of any retroactive payments included in that payment. A member who repurchases service credit under this paragraph and applies for retirement benefits shall have the member's monthly allowance, including retroactive adjustment payments, determined in the same manner as provided in paragraph "a" or "b", as applicable. This paragraph shall not be implemented until the system has received a determination letter from the federal internal revenue service approving the system's plan's qualified status under Internal Revenue Code section 401(a).

Sec. 51. NEW SECTION. 97B.50A DISABILITY BENEFITS FOR SPECIAL SERVICE MEMBERS.

1. DEFINITIONS. For purposes of this section, unless the context otherwise provides:

a. "Member" means a vested member who is classified as a special service member under section 97B.1A, subsection 22, at the time of the alleged disability. "Member" does not mean a volunteer fire fighter.

b. "Net disability retirement allowance" means the amount determined by subtracting the amount paid during the previous calendar year by the member for health insurance or similar health care coverage for the member and the member's dependents from the amount of the member's disability retirement allowance, including any dividends and distributions from supplemental accounts, paid for that year pursuant to this section.

c. "Reemployment comparison amount" means an amount equal to the current covered wages of an active special service member at the same position on the salary scale within the rank or position the member held at the time the member received a disability retirement allowance pursuant to this section. If the rank or position held by the member at the time of retirement pursuant to this section is abolished, the amount shall be computed by the department as though the rank or position had not been abolished and salary increases had been granted on the same basis as granted to other ranks or positions by the former employer of the member. The reemployment comparison amount shall not be less than the three-year average covered wage of the member, based on all regular and special service covered under this chapter.

2. IN-SERVICE DISABILITY RETIREMENT ALLOWANCE.

a. A member who is injured in the performance of the member's duties, and otherwise meets the requirements of this subsection shall receive an in-service disability retirement

allowance under this subsection, in lieu of a monthly retirement allowance as provided in section 97B.49A, 97B.49B, 97B.49C, 97B.49D, or 97B.49G, as applicable.

b. Upon application of a member, a member who has become totally and permanently incapacitated for duty in the member's special service occupation as the natural and proximate result of an injury, disease, or exposure occurring or aggravated while in the actual performance of duty at some definite place and time shall be eligible to retire under this subsection, provided that the medical board, as established by this section, shall certify that the member is mentally or physically incapacitated for further performance of duty, that the incapacity is likely to be permanent, and that the member should be retired. The department shall make the final determination, based on the medical evidence received, of a member's total and permanent disability. However, if a person's special service membership in the system first commenced on or after July 1, 2000, the member shall not be eligible for benefits with respect to a disability which would not exist, but for a medical condition that was known to exist on the date that membership commenced. A member who is denied a benefit under this subsection, by reason of a finding by the department that the member is not mentally or physically incapacitated for the further performance of duty, shall be entitled to be restored to active service in the same or comparable special service occupation position held by the member immediately prior to the application for disability benefits.

c. Disease under this subsection shall mean heart disease or any disease of the lungs or respiratory tract and shall be presumed to have been contracted while on active duty as a result of strain, exposure, or the inhalation of noxious fumes, poison, or gases. However, if a person's special service membership in the system first commenced on or after July 1, 2000, and the heart disease or disease of the lungs or respiratory tract would not exist, but for a medical condition that was known to exist on the date that special service membership commenced, the presumption established in this paragraph shall not apply.

d. Upon retirement for an in-service disability as provided by this subsection, a member shall receive the greater of a monthly in-service disability retirement allowance calculated under this subsection or a monthly retirement allowance as provided in section 97B.49A, 97B.49B, 97B.49C, 97B.49D, or 97B.49G, as applicable. The monthly in-service disability allowance calculated under this subsection shall consist of an allowance equal to one-twelfth of sixty percent of the member's three-year average covered wage or its actuarial equivalent as provided under section 97B.51.

3. ORDINARY DISABILITY RETIREMENT ALLOWANCE.

a. A member who otherwise meets the requirements of this subsection shall receive an ordinary disability retirement allowance under this subsection, in lieu of a monthly retirement allowance as provided in section 97B.49A, 97B.49B, 97B.49C, 97B.49D, or 97B.49G, as applicable.

b. Upon application of a member, a member who has become totally and permanently incapacitated for duty in the member's special service occupation shall be eligible to retire under this subsection, provided that the medical board, as established by this section, shall certify that the member is mentally or physically incapacitated for further performance of duty, that the incapacity is likely to be permanent, and that the member should be retired. The department shall make the final determination, based on the medical evidence received, of a member's total and permanent disability. However, if a person's special service membership in the system first commenced on or after July 1, 2000, the member shall not be eligible for benefits with respect to a disability which would not exist, but for a medical condition that was known to exist on the date that special service membership commenced. A member who is denied a benefit under this subsection, by reason of a finding by the department that the member is not mentally or physically incapacitated for the further performance of duty, shall be entitled to be restored to active service in the same or comparable special service occupation position held by the member immediately prior to the application for disability benefits.

c. Upon retirement for an ordinary disability as provided by this subsection, a member shall receive the greater of a monthly ordinary disability retirement allowance calculated under this subsection or a monthly retirement allowance as provided in section 97B.49A, 97B.49B, 97B.49C, 97B.49D, or 97B.49G, as applicable. The monthly ordinary disability allowance calculated under this subsection shall consist of an allowance equal to one-twelfth of fifty percent of the member's three-year average covered wage or its actuarial equivalent as provided under section 97B.51.

4. WAIVER OF ALLOWANCE. A member receiving a disability retirement allowance under this section may file an application to receive benefits pursuant to section 97B.50, subsection 2, in lieu of receiving a disability retirement allowance under this section, if the member becomes eligible for benefits under section 97B.50, subsection 2. An application to receive benefits pursuant to section 97B.50, subsection 2, shall be filed with the department within sixty days after the member becomes eligible for benefits pursuant to that section or the member shall be ineligible to elect coverage under that section. On the first of the month following the month in which a member's application is approved by the department, the member's election of coverage under section 97B.50, subsection 2, shall become effective and the member's eligibility to receive a disability retirement allowance pursuant to this section shall cease. Benefits payable pursuant to section 97B.50, subsection 2, shall be calculated using the option choice the member selected for payment of a disability retirement allowance pursuant to this section. An application to elect coverage under section 97B.50, subsection 2, is irrevocable upon approval by the department.

5. OFFSET TO ALLOWANCE. Notwithstanding any provisions to the contrary in state law, or any applicable contract or policy, any amounts which may be paid or payable by the employer under any workers' compensation, unemployment compensation, or other law to a member, and any disability payments the member receives pursuant to the federal Social Security Act, 42 U.S.C. § 423 et seq., shall be offset against and payable in lieu of any retirement allowance payable pursuant to this section on account of the same disability.

6. REEXAMINATION OF MEMBERS RETIRED ON ACCOUNT OF DISABILITY.

a. Once each year during the first five years following the retirement of a member under this section, and once in every three-year period thereafter, the department may, and upon the member's application shall, require any member receiving an in-service or ordinary disability retirement allowance who has not yet attained the age of fifty-five years to undergo a medical examination as arranged by the medical board as established by this section. The examination shall be made by the medical board or by an additional physician or physicians designated by the medical board. If any member receiving an in-service or ordinary disability retirement allowance who has not attained the age of fifty-five years refuses to submit to the medical examination, the allowance may be discontinued until the member's withdrawal of the refusal, and should the member's refusal continue for one year, all rights in and to the member's disability retirement allowance shall be revoked by the department.

b. If a member is determined under paragraph "a" to be no longer eligible for in-service or ordinary disability benefits, all benefits paid under this section shall cease. The member shall be eligible to receive benefits calculated under section 97B.49B or 97B.49C, as applicable, when the member reaches age fifty-five.

7. REEMPLOYMENT.

a. If a member receiving a disability retirement allowance is returned to covered employment, the member's disability retirement allowance shall cease, the member shall again become an active member, and shall contribute thereafter at the same rate payable by similarly classified members. If a member receiving a disability retirement allowance returns to special service employment, then the period of time the member received a disability retirement allowance shall constitute eligible service as defined in section 97B.49B, subsection 1, or section 97B.49C, subsection 1, as applicable. Upon subsequent retirement, the member's retirement allowance shall be calculated as provided in section 97B.48A.

b. (1) If a member receiving a disability retirement allowance is engaged in a gainful occupation that is not covered employment, the member's disability retirement allowance shall be reduced, if applicable, as provided in this paragraph.

(2) If the member is engaged in a gainful occupation paying more than the difference between the member's net disability retirement allowance and one and one-half times the reemployment comparison amount for that member, then the amount of the member's disability retirement allowance shall be reduced to an amount such that the member's net disability retirement allowance plus the amount earned by the member shall equal one and one-half times the reemployment comparison amount for that member.

(3) The member shall submit sufficient documentation to the system to permit the system to determine the member's net disability retirement allowance and earnings from a gainful occupation that is not covered employment for the applicable year.

(4) This paragraph does not apply to a member who is at least fifty-five years of age and would have completed a sufficient number of years of service if the member had remained in active special service employment. For purposes of this subparagraph, a sufficient number of years of service shall be twenty-five for a special service member as described in section 97B.49B or twenty-two for a special service member as described in section 97B.49C.

8. DEATH BENEFITS. A member who is receiving an in-service or ordinary disability retirement allowance under this section shall be treated as having elected a lifetime monthly retirement allowance with death benefits payable under section 97B.52, subsection 2, unless the member elects an optional form of benefit provided under section 97B.51, which shall be actuarially equivalent to the lifetime monthly retirement allowance provided under this section.

9. MEDICAL BOARD. The system shall designate a medical board to be composed of three physicians from the university of Iowa hospitals and clinics who shall arrange for and pass upon the medical examinations required under this section and shall report in writing to the department the conclusions and recommendations upon all matters duly referred to the medical board. Each report of a medical examination under this section shall include the medical board's findings as to the extent of the member's physical or mental impairment. Except as required by this section, each report shall be confidential and shall be maintained in accordance with the federal Americans with Disabilities Act, and any other state or federal law containing requirements for confidentiality of medical records.

10. LIABILITY OF THIRD PARTIES — SUBROGATION.

a. If a member receives an injury for which benefits are payable under this section, and if the injury is caused under circumstances creating a legal liability for damages against a third party other than the system, the member or the member's legal representative may maintain an action for damages against the third party. If a member or a member's legal representative commences such an action, the plaintiff member or representative shall serve a copy of the original notice upon the system not less than ten days before the trial of the action, but a failure to serve the notice does not prejudice the rights of the system, and the following rights and duties ensue:

(1) The system shall be indemnified out of the recovery of damages to the extent of benefit payments made by the system, with legal interest, except that the plaintiff member's attorney fees may be first allowed by the district court.

(2) The system has a lien on the damage claim against the third party and on any judgment on the damage claim for benefits for which the system is liable. In order to continue and preserve the lien, the system shall file a notice of the lien within thirty days after receiving a copy of the original notice in the office of the clerk of the district court in which the action is filed.

b. If a member fails to bring an action for damages against a third party within thirty days after the system requests the member in writing to do so, the system is subrogated to the rights of the member and may maintain the action against the third party, and may recover damages for the injury to the same extent that the member may recover damages for the injury. If the system recovers damages in the action, the court shall enter judgment for distribution of the recovery as follows:

(1) A sum sufficient to repay the system for the amount of such benefits actually paid by the system up to the time of the entering of the judgment.

(2) A sum sufficient to pay the system the present worth, computed at the interest rate provided in section 535.3 for court judgments and decrees, of the future payments of such benefits, for which the system is liable, but the sum is not a final adjudication of the future payment which the member is entitled to receive.

(3) Any balance shall be paid to the member.

c. Before a settlement is effective between the system and a third party who is liable for any injury, the member must consent in writing to the settlement; and if the settlement is between the member and a third party, the system must consent in writing to the settlement; or on refusal to consent, in either case, the district court in the county in which either the employer of the member or the system is located must consent in writing to the settlement.

d. For purposes of subrogation under this section, a payment made to an injured member or the member's legal representative, by or on behalf of a third party or the third party's principal or agent, who is liable for, connected with, or involved in causing the injury to the member, shall be considered paid as damages because the injury was caused under circumstances creating a legal liability against the third party, whether the payment is made under a covenant not to sue, compromise settlement, denial of liability, or is otherwise made.

11. DOCUMENT SUBMISSIONS. A member retired under this section, in order to be eligible for continued receipt of retirement benefits, shall submit to the department any documentation the department may reasonably request which will provide information needed to determine payments to the member under this section.

12. ADDITIONAL CONTRIBUTIONS. The expenses incurred in the administration of this section by the system shall be paid through additional contributions as determined pursuant to section 97B.49B, subsection 3, or section 97B.49C, subsection 3, as applicable.

13. APPLICABILITY — RETROACTIVITY.

a. This section applies to a member who becomes disabled on or after July 1, 2000, and also applies to a member who becomes disabled prior to July 1, 2000, if the member has not terminated special service employment as of June 30, 2000.

b. To qualify for benefits under this section, a member must file a completed application with the department within one year of the member's termination of employment. A member eligible for a disability retirement allowance under this section is entitled to receipt of retroactive adjustment payments for no more than six months immediately preceding the month in which the completed application for receipt of a disability retirement allowance under this section is approved.

14. RULES. The department shall adopt rules pursuant to chapter 17A specifying the application procedure for members pursuant to this section.

Sec. 52. Section 97B.51, Code 1999, is amended by striking the section and inserting in lieu thereof the following:

97B.51 ALLOWANCE UPON RETIREMENT.

1. Each member has the right prior to the member's retirement date to elect to have the member's retirement allowance payable under one of the options set forth in this section. The amount of the optional retirement allowance selected in paragraph "a", "c", "d", or "e", shall be the actuarial equivalent of the amount of the retirement allowance otherwise payable to the member as determined by the system in consultation with the system's actuary. The member shall make an election by written request to the department and the election is subject to the approval of the department. If the member is married, election of an option under this section requires the written acknowledgment of the member's spouse. The member may select one of the following options:

a. At retirement, a member may designate that upon the member's death, a specified amount of money shall be paid to a named beneficiary, and the member's monthly retirement allowance shall be reduced by an actuarially determined amount to provide for the lump sum payment. The amount designated by the member must be in thousand dollar

increments and shall be limited to the amount of the member's accumulated contributions. The amount designated shall not lower the monthly retirement allowance of the member by more than one-half the amount payable as provided in paragraph "b". A member may designate a different beneficiary at any time, except as limited by an order that has been accepted by the department as complying with the requirements of section 97B.39.

b. A member may elect a retirement allowance otherwise payable to the member upon retirement under the retirement system pursuant to this chapter, to include the applicable provisions of sections 97B.49A through 97B.49G, and a death benefit as provided in section 97B.52, subsection 2.

c. A member may elect an increased retirement allowance during the member's lifetime with no death benefit after the member's retirement date.

d. (1) A member may elect to receive a decreased retirement allowance during the member's lifetime and have the decreased retirement allowance, or a designated fraction thereof, continued after the member's death to another person, called a contingent annuitant, during the lifetime of the contingent annuitant. The member cannot change the contingent annuitant after the member's retirement. In case of the election of a contingent annuitant, no death benefits, as might otherwise be provided by this chapter, will be payable upon the death of either the member or the contingent annuitant after the member's retirement.

(2) In lieu of a benefit as calculated under subparagraph (1), a member may elect to receive a decreased retirement allowance during the member's lifetime and have the decreased retirement allowance, or a designated fraction thereof, continued after the member's death to another person, called a contingent annuitant, during the lifetime of the contingent annuitant, as determined by this subparagraph. In addition, if the contingent annuitant dies prior to the death of the member, the member shall receive a retirement allowance beginning with the first month following the death of the contingent annuitant as if the member had selected the option provided by paragraph "b" at the time of the member's first retirement. The member cannot change the contingent annuitant after the member's retirement. If a contingent annuitant receives a decreased retirement allowance under this subparagraph following the death of the member, no death benefits, as might otherwise be provided by this chapter, will be payable upon the death of the contingent annuitant.

e. A member may elect to receive a decreased retirement allowance during the member's lifetime with provision that in event of the member's death during the first one hundred twenty months of retirement, monthly payments of the member's decreased retirement allowance shall be made to the member's beneficiary until a combined total of one hundred twenty monthly payments have been made to the member and the member's beneficiary. When the member designates multiple beneficiaries, the present value of the remaining payments shall be paid in a lump sum to each beneficiary, either in equal shares to the beneficiaries, or if the member specifies otherwise in a written request, in the specified proportion. A member may designate a different beneficiary at any time, except as limited by an order that has been accepted by the department as complying with the requirements of section 97B.39.

2. The election by a member of an option stated under this section shall be null and void if the member dies prior to the member's first month of entitlement.

3. A member who had elected to take an option stated in this section, may, at any time prior to retirement, revoke such an election by written notice to the department. A member shall not change or revoke an election once the first retirement allowance is paid.

Sec. 53. Section 97B.52, subsection 1, Code 1999, is amended to read as follows:

1. If a member dies prior to the member's first month of entitlement, <u>the member's beneficiary shall be entitled to receive a death benefit equal to the greater of the amount provided in paragraph "a" or "b".</u>

<u>a.</u> <u>A lump sum payment equal to</u> the accumulated contributions of the member at the date of death plus the product of an amount equal to the highest year of covered wages of the deceased member and the number of years of membership service divided by the applicable

denominator ~~shall be paid to the member's beneficiary in a lump sum payment~~. However, a lump sum payment made to a beneficiary under this ~~subsection~~ paragraph due to the death of a member shall not be less than the amount that would have been payable on the death of the member on June 30, 1984, under this ~~subsection~~ paragraph as it appeared in the 1983 Code.

As used in this ~~subsection~~ paragraph, "applicable denominator" means the following, based upon the type of membership service in which the member served either on the date of death, or if the member died after terminating service, on the date of the member's last termination of service:

~~a.~~ (1) For regular service, the applicable denominator is thirty.

~~b.~~ (2) For service in a protection occupation, as defined in section 97B.49B, the applicable denominator is ~~twenty-five~~ the applicable years of service for the member as defined in section 97B.49B if the member had retired on the date of death.

~~c.~~ (3) For service as a sheriff, deputy sheriff, or airport fire fighter, as provided in section 97B.49C, the applicable denominator is twenty-two.

Effective July 1, 1978, a method of payment under this ~~subsection~~ paragraph filed with the department by a member does not apply.

b. For a member who dies on or after January 1, 2001, a lump sum payment equal to the actuarial present value of the member's accrued benefit as of the date of death. The actuarial equivalent present value of the member's accrued benefit as of the date of death shall be calculated using the same interest rate and mortality tables that are used by the system and the system's actuary under section 97B.51, and shall assume that the member would have retired at the member's earliest normal retirement date.

c. The payment of a death benefit to a designated beneficiary as provided by this subsection shall be in a lump sum payment. However, if the designated beneficiary is a sole individual, the beneficiary may elect to receive, in lieu of a lump sum payment under this subsection, a monthly annuity payable for the life of the beneficiary. The monthly annuity shall be calculated by applying the annuity tables used by the department to the lump sum payment under this subsection based on the beneficiary's age. If the designated beneficiary is more than one individual, or if the designated beneficiary is an estate, trust, church, charity, or other similar organization, a death benefit under this subsection shall only be paid in a lump sum.

Sec. 54. Section 97B.52, Code 1999, is amended by adding the following new subsection:

NEW SUBSECTION. 1A. a. If the department determines, upon the receipt of evidence and proof, that the death of a member in special service was the direct and proximate result of a traumatic personal injury incurred in the line of duty as a member in special service, a line of duty death benefit in an amount of one hundred thousand dollars shall be paid in a lump sum to the special service member's beneficiary. A line of duty death benefit payable under this subsection shall be in addition to any death benefit payable as provided in subsection 1.

b. A line of duty death benefit shall not be payable under this subsection if any of the following applies:

(1) The death resulted from stress, strain, occupational illness, or a chronic, progressive, or congenital illness, including, but not limited to, a disease of the heart, lungs, or respiratory system, unless a traumatic personal injury was a substantial contributing factor to the special service member's death.

(2) The death was caused by the intentional misconduct of the special service member or by the special service member's intent to cause the special service member's own death.

(3) The special service member was voluntarily intoxicated at the time of death.

(4) The special service member was performing the special service member's duties in a grossly negligent manner at the time of death.

(5) A beneficiary who would otherwise be entitled to a benefit under this subsection was, through the beneficiary's actions, a substantial contributing factor to the special service member's death.

Sec. 55. Section 97B.52, subsection 2, Code 1999, is amended to read as follows:

2. If a member dies on or after the first day of the member's first month of entitlement, the excess, if any, of the accumulated contributions by the member as of said date, over the total gross monthly retirement allowances received by the member under the retirement system will be paid to the member's beneficiary unless the retirement allowance is then being paid in accordance with section 97B.48 or with section 97B.51, subsection 1, ~~4, 5, or 6~~ paragraph "a", "c", "d", or "e".

Sec. 56. Section 97B.52, subsection 3, paragraph a, Code 1999, is amended to read as follows:

a. Other than as provided in subsections 1, 1A, and 2 of this section, or section 97B.51, all rights to any benefits under the retirement system shall cease upon the death of a member.

Sec. 57. Section 97B.52, subsection 4, unnumbered paragraph 1, Code 1999, is amended to read as follows:

In order to receive the death benefit, the beneficiary, heirs at law, or the estate, or any other third-party payee, must apply to the department within five years of the member's death. However, death benefits payable under this section shall not exceed the amount permitted pursuant to Internal Revenue Code section 401(a)(9) and the applicable treasury regulations.

Sec. 58. Section 97B.52, subsection 5, Code 1999, is amended to read as follows:

5. Following written notification to the department, a beneficiary of a deceased member may waive current and future rights to payments to which the beneficiary would otherwise be entitled under section 97B.51, ~~subsections 5 and 6 and this section~~ subsection 1, paragraphs "a", "b", and "e". Upon receipt of the waiver, the department shall pay the amount designated to be received by that beneficiary to the member's other surviving beneficiary or beneficiaries or to the estate of the deceased member, as elected by the beneficiary in the waiver. If the payments being waived are payable to the member's estate and an estate is not probated, the payments shall be paid to the deceased member's surviving spouse, or if there is no surviving spouse, to the member's heirs other than the beneficiary who waived the payments.

Sec. 59. Section 97B.52A, subsection 1, paragraph b, Code 1999, is amended to read as follows:

b. For a member whose first month of entitlement is July 1998 or later, but before July 2000, the member does not return to any employment with a covered employer until the member has qualified for no fewer than four calendar months of retirement benefits.

Sec. 60. Section 97B.52A, subsection 1, Code 1999, is amended by adding the following new paragraph:

NEW PARAGRAPH. c. For a member whose first month of entitlement is July 2000 or later, the member does not return to any employment with a covered employer until the member has qualified for at least one calendar month of retirement benefits, and the member does not return to covered employment until the member has qualified for no fewer than four calendar months of retirement benefits. For purposes of this paragraph, effective July 1, 2000, any employment with a covered employer does not include employment as an elective official or member of the general assembly if the member is not covered under this chapter for that employment.

Sec. 61. Section 97B.52A, subsection 2, Code 1999, is amended to read as follows:

2. A member may commence receiving retirement benefits under this chapter upon satisfying eligibility requirements. However, a retired member who commences receiving a retirement allowance but ~~returns to employment before qualifying for no fewer than four calendar months of retirement benefits~~ fails to meet the applicable requirements of subsection 1 does not have a bona fide retirement and any retirement allowance received by such

a member must be returned to the system together with interest earned on the retirement allowance calculated at a rate determined by the department. Until the member has repaid the retirement allowance and interest, the department may withhold any future retirement allowance for which the member may qualify.

Sec. 62. Section 97B.52A, Code 1999, is amended by adding the following new subsection:
NEW SUBSECTION. 4. The requirements of this section shall apply to a lump sum payment as provided by section 97B.48, subsection 1, and the payment of contributions as provided in section 97B.48A, subsection 4.

Sec. 63. Section 97B.53, Code Supplement 1999, is amended to read as follows:
97B.53 TERMINATION OF EMPLOYMENT — REFUND OPTIONS.
Membership in the retirement system, and all rights to the benefits under the system, ~~will~~ cease upon a member's termination of employment with the employer prior to the member's retirement, other than by death, and upon receipt by the member of ~~the~~ a refund of moneys in the member's ~~accumulated contributions~~ account as provided in this section.

1. Upon the termination of employment with the employer prior to retirement other than by death of a member, the member's account, consisting of accumulated contributions by the member and, for a ~~vested~~ member who is vested on the date an application for a refund is filed, the member's share of the accumulated employer contributions for the vested member at the date of the termination, may be paid to the member upon application, except as provided in subsections 2, 5, and 6. For the purpose of this subsection, the "member's share of the accumulated employer contributions" is an amount equal to the ~~total obtained as of any date, by accumulating each individual contribution by the employer for the member with interest plus interest dividends as provided in section 97B.70, for all completed calendar years and for any completed calendar year for which the interest dividend has not been declared and for completed months of partially completed calendar years, compounded as provided in section 97B.70~~ accumulated employer contributions of the member multiplied by a fraction of years of service for that member as defined in section 97B.49A, 97B.49B, or 97B.49C.

2. If a vested member's employment is terminated prior to the member's retirement, other than by death, the member may receive a monthly retirement allowance commencing on the first day of the month in which the member attains the age of sixty-five years, if the member is then alive, or, if the member so elects in accordance with section 97B.47, commencing on the first day of the month in which the member attains the age of fifty-five or any month thereafter prior to the date the member attains the age of sixty-five years, and continuing on the first day of each month thereafter during the member's lifetime, provided the member does not receive prior to the date the member's retirement allowance is to commence a refund of ~~accumulated contributions~~ moneys in the member's account as provided under any of the provisions of this chapter. The amount of each such monthly retirement allowance shall be determined as provided in either sections 97B.49A through 97B.49G, or in section 97B.50, whichever is applicable.

~~3. The accumulated contributions account of a terminated, vested member shall be credited with interest, including interest dividends, in the manner provided in section 97B.70.~~

~~4.~~ 3. A terminated, vested member has the right, prior to the commencement of the member's retirement allowance, to receive a refund of moneys in the member's ~~accumulated contributions~~ account, and in the event of the death of the member prior to the commencement of the member's retirement allowance and prior to the receipt of any such refund, the benefits ~~of~~ authorized by subsection 1 and subsection 1A of section 97B.52 shall be paid.

~~5.~~ 4. A member has not terminated employment for purposes of this section if the member accepts other covered employment within ~~thirty days~~ four months after receiving the last payment of wages for covered employment, or if the member begins covered employment prior to filing a request for a refund with the department.

~~5A.~~ 5. Within sixty days after a member has been issued payment for a refund of moneys in the member's ~~accumulated contributions~~ account, the member may repay the ~~accumulated contributions~~ moneys refunded, plus interest that would have accrued, as determined by the department, and receive credit for membership service for the period covered by the refund payment.

~~5B.~~ 6. A member who does not withdraw moneys in the member's ~~accumulated contributions~~ account upon termination of employment may at any time request the return of the moneys in the member's ~~accumulated contributions~~ account, but if the member receives a return of ~~contributions~~ moneys in the member's account the member has waived all claims for any other benefits and membership rights from the fund.

7. If a member is involuntarily terminated from covered employment, has been issued payment for a refund, and is retroactively reinstated in covered employment as a remedy for an employment dispute, the member may receive credit for membership service for the period covered by the refund payment upon repayment to the department within ninety days after the date of the order or agreement requiring reinstatement of the amount of the refund plus interest that would have accrued, as determined by the department.

~~6.~~ 8. The system is under no obligation to maintain the ~~accumulated contribution~~ member account of a member who terminates covered employment prior to December 31, 1998, if the member was not vested at the time of termination. A person who made contributions to the abolished system, who is entitled to a refund in accordance with the provisions of this chapter, and who has not claimed and received such a refund prior to January 1, 1964, shall, if the person makes a claim for refund after January 1, 1964, be required to submit proof satisfactory to the department of the person's entitlement to the refund. The department is under no obligation to maintain the ~~contribution~~ member accounts of such persons after January 1, 1964.

~~7.~~ 9. Any member whose employment is terminated may elect to leave the moneys in the member's ~~accumulated contributions~~ member account in the retirement fund.

~~8.~~ 10. If an employee hired to fill a permanent position terminates the employee's employment within six months from the date of employment, the employer may file a claim with the department for a refund of the funds contributed to the department by the employer for the employee.

Sec. 64. Section 97B.53A, Code 1999, is amended to read as follows:

97B.53A DUTY OF DEPARTMENT.

~~Effective July 1, 1991, upon~~ Upon a member's termination of covered employment prior to the member's retirement, the department shall send the member by first class mail, to the member's last known mailing address, a notice setting forth the balance and status of the member's account and supplemental account and an explanation of the courses of action available to the member under this chapter.

Sec. 65. Section 97B.53B, subsection 1, paragraph c, unnumbered paragraph 1, Code 1999, is amended to read as follows:

"Eligible rollover distribution" means all or any portion of a member's account and supplemental account, except that an eligible rollover distribution does not include any of the following:

Sec. 66. Section 97B.60, Code 1999, is amended to read as follows:

97B.60 ACTUARIAL INVESTIGATION.

~~At least once in each two-year period~~ During calendar year 2002, and every four years thereafter, the department shall cause an actuarial investigation to be made of all experience under the retirement system. Pursuant to such an investigation, the department shall, from time to time, determine upon an actuarial basis the condition of the system and shall report to the general assembly its findings and recommendations. The department shall adopt from time to time mortality tables and all other necessary factors for use in all actuarial calculations required in connection with the retirement system.

Sec. 67. Section 97B.70, Code 1999, is amended to read as follows:

97B.70 INTEREST AND DIVIDENDS TO MEMBERS.

1. For calendar years prior to January 1, 1997, interest at two percent per annum and interest dividends declared by the department shall be credited to the member's contributions and the employer's contributions to become part of the accumulated contributions and accumulated employer contributions thereby.

a. The average rate of interest earned shall be determined upon the following basis:

(1) Investment income shall include interest and cash dividends on stock.

(2) Investment income shall be accounted for on an accrual basis.

(3) Capital gains and losses, realized or unrealized, shall not be included in investment income.

(4) Mean assets shall include fixed income investments valued at cost or on an amortized basis, and common stocks at market values or cost, whichever is lower.

(5) The average rate of earned interest shall be the quotient of the investment income and the mean assets of the retirement fund.

b. The interest dividend shall be determined within sixty days after the end of each calendar year as follows:

The dividend rate for a calendar year shall be the excess of the average rate of interest earned for the year over the statutory two percent rate plus twenty-five hundredths of one percent. The average rate of interest earned and the interest dividend rate in percent shall be calculated to the nearest one hundredth, that is, to two decimal places. Interest and interest dividends calculated pursuant to this subsection shall be compounded annually.

2. For calendar years beginning January 1, 1997, a per annum interest rate at one percent above the interest rate on one-year certificates of deposit shall be credited to the member's contributions and the employer's contributions to become part of the accumulated contributions and accumulated employer contributions account. For purposes of this subsection, the interest rate on one-year certificates of deposit shall be determined by the department based on the average rate for such certificates of deposit as of the first business day of each year as published in a publication of general acceptance in the business community. The per annum interest rate shall be credited on a quarterly basis by applying one-quarter of the annual interest rate to the sum of the accumulated contributions and the accumulated employer contributions as of the end of the previous calendar quarter.

3. Interest shall be credited to the accumulated contributions and accumulated employer contributions accounts, and supplemental accounts of active members, inactive vested members, and, effective January 1, 1999, to inactive nonvested members, until the quarter prior to the quarter in which the member's first retirement allowance is paid or in which the member is issued a refund under section 97B.53, or in which a death benefit is issued.

4. Prior to January 1, 1999, interest and interest dividends shall be credited to the accumulated contributions and accumulated employer contributions account of a person who leaves the contributions in the retirement fund upon termination from covered employment prior to achieving vested status, but who subsequently returns to covered employment. Upon return to covered employment but prior to January 1, 1999, interest and interest dividends shall be credited to the accumulated contributions and accumulated employer contributions account of the person commencing upon the date on which the person has covered wages.

5. If the department no longer maintains the accumulated contribution and accumulated employer contributions account of the person pursuant to this chapter, but the person submits satisfactory proof to the department that the person, or the person's employer, did make ~~the~~ contributions that should be included in the accumulated contributions and accumulated employer contributions account, the department shall credit interest and interest dividends in the manner provided in subsection 4.

Sec. 68. Section 97B.73, subsection 1, Code 1999, is amended to read as follows:

1. a. A vested or retired member who has one or more full calendar years of covered wages who was in public employment comparable to employment covered under this chapter in

another state or in the federal government, or who was a member of another public retirement system in this state, including but not limited to the teachers insurance annuity association-college retirement equities fund, but who was not retired under that system, upon submitting verification of membership and service in the other public system to the department, including proof that the member has no further claim upon a retirement benefit from that other public system, may make contributions as provided by this section to the system either for the entire period of service in the other public system, or for partial service in the other public system in increments of one or more calendar quarters. If the member wishes to transfer only a portion of the service value of another public system to this system and the other public system allows a partial withdrawal of a member's system credits, the member shall receive credit for membership service in this system equivalent to the period of service transferred from the other public system.

b. A vested or retired member who has five or more full calendar years of covered wages who was in public employment comparable to employment covered under this chapter in a qualified Canadian governmental entity may make contributions as provided by this section to the system and receive service credit, in increments of one or more calendar quarters, for up to the lesser of twenty quarters of service credit for such employment or the entire period of service in the other public system. Prior to receiving service credit, the member shall submit verification of membership and service in the other public system to the department, including proof that the member has no further claim upon a retirement benefit from that other public system. If the member wishes to transfer only a portion of the service value of another public system to this system and the other public system allows a partial withdrawal of a member's system credits, the member shall receive credit for membership service in this system equivalent to the period of service transferred from the other public system. For purposes of this paragraph, "qualified Canadian governmental entity" means an elementary school, secondary school, college, or university that is organized, administered, and primarily supported by the provincial, territorial, or federal governments of Canada, or any combination of the same.

Sec. 69. NEW SECTION. 97B.73B PATIENT ADVOCATES — UNPAID CONTRIBUTIONS — SERVICE PURCHASE.

1. Notwithstanding the provisions of section 97B.9, to the contrary, unpaid contributions for a person classified as a patient advocate under section 229.19, for service as a patient advocate prior to July 1, 2000, shall be determined and collected as provided under section 97B.9, subsection 4, but shall be limited to the collection of underpaid contributions for a maximum of one year of service.

2. A patient advocate who becomes covered under this chapter and for whom underpaid contributions for one year of service have been paid shall be eligible to purchase membership service for service as a patient advocate prior to July 1, 2000, in excess of the one year of service provided in this section by paying the department of personnel an amount determined as follows:

a. For a purchase of membership service prior to July 1, 2002, the total of the employee and employer contributions, without interest, on the covered wages that would have been reported to the department under the provisions of this chapter in effect for the applicable period of service.

b. For a purchase of membership service on or after July 1, 2002, the actuarial cost of the service purchase in a manner as provided in section 97B.73.

Sec. 70. NEW SECTION. 97B.80A PUBLIC EMPLOYMENT SERVICE CREDIT.

1. A vested or retired member who has five or more full calendar years of covered wages and who at any time was employed by a covered employer under this chapter but at the time of the employment was not covered by this chapter and did not opt out of coverage under this chapter, upon submitting verification of the public employment and the dates of the public employment, may make contributions to the system for up to the lesser of twenty quarters of service credit for such public employment or the entire period of the public employment, in

increments of one or more calendar quarters, and receive credit for membership service and prior service for the period of time for which the contributions are made.

2. The contributions required to be made for purposes of this section shall be in an amount equal to the actuarial cost of the service purchase. For purposes of this subsection, the actuarial cost of the service purchase is an amount determined by the department in accordance with actuarial tables, as reported to the department by the system's actuary, which reflects the actuarial cost necessary to fund an increased retirement allowance resulting from the purchase of additional service.

3. The verification of the public employment and the dates of such public employment shall be made by the department prior to receiving contributions from the member.

4. A member eligible for an increased retirement allowance because of the payment of contributions under this section is entitled to receipt of retroactive adjustment payments for no more than six months immediately preceding the month in which the member pays contributions under this section.

5. A purchase of service made in accordance with this section by a retired reemployed member shall be applied to either the member's original retirement allowance, or to the member's reemployment service, whichever is more beneficial to the member. If applied to a member's original retirement allowance, or to the member's reemployment service after the retirement allowance payments for such service begin, the member is eligible to receive retroactive adjustment payments for no more than six months prior to completion of the purchase.

6. The department shall ensure that the member, in exercising an option provided in this section, does not exceed the amount of annual additions to a member's account permitted pursuant to section 415 of the federal Internal Revenue Code.

Sec. 71. NEW SECTION. 97B.80B VOLUNTEER PUBLIC SERVICE CREDIT.

1. A vested or retired member who has five or more full calendar years of covered wages and who at any time was in full-time volunteer public service, upon submitting verification of the full-time volunteer public service and the dates of the service, may make contributions to the system for up to the lesser of twenty quarters of service credit for such volunteer public service or the entire period of the volunteer public service, in increments of one or more calendar quarters, and receive credit for membership service and prior service for the period of time for which the contributions are made. For purposes of this section, "full-time volunteer public service" means service in the federal peace corps program.

2. The contributions required to be made for purposes of this section shall be in an amount equal to the actuarial cost of the service purchase. For purposes of this subsection, the actuarial cost of the service purchase is an amount determined by the department in accordance with actuarial tables, as reported to the department by the system's actuary, which reflects the actuarial cost necessary to fund an increased retirement allowance resulting from the purchase of additional service.

3. The verification of the full-time volunteer public service and the dates of such service shall be made by the department prior to receiving contributions from the member.

4. A member eligible for an increased retirement allowance because of the payment of contributions under this section is entitled to receipt of retroactive adjustment payments for no more than six months immediately preceding the month in which the member pays contributions under this section.

5. A purchase of service made in accordance with this section by a retired reemployed member shall be applied to either the member's original retirement allowance, or to the member's reemployment service, whichever is more beneficial to the member. If applied to a member's original retirement allowance, or to the member's reemployment service after the retirement allowance payments for such service begin, the member is eligible to receive retroactive adjustment payments for no more than six months prior to completion of the purchase.

6. The department shall ensure that the member, in exercising an option provided in this section, does not exceed the amount of annual additions to a member's account permitted pursuant to section 415 of the federal Internal Revenue Code.

Sec. 72. NEW SECTION. 97B.82 PURCHASE OF SERVICE CREDIT — DIRECT ROLLOVERS.

Effective July 1, 2002, a member may purchase any service credit permitted under this chapter by means of a direct rollover pursuant to rules adopted by the department and consistent with applicable requirements of the Internal Revenue Code. For purposes of this section, a "direct rollover" means a transfer to the system of an eligible rollover distribution from a qualified plan, including an eligible rollover distribution of qualified plan assets made through a conduit eligible retirement plan, all as described under the Internal Revenue Code. The amount of the direct rollover into the system cannot exceed the cost of the service purchase by a member under this chapter. Once a direct rollover is made, the member must forfeit the applicable service credit under the qualified plan from which the eligible rollover distribution is received.

Sec. 73. Section 97B.13, Code 1999, is repealed.

Sec. 74. IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM — PAYMENT OF ALLOWANCES — ACTIVE MEMBER RETIREMENT.[2] Notwithstanding any provision of chapter 97B to the contrary, an eligible member who terminates employment covered by chapter 97B on or after January 1, 2000, shall have the member's monthly retirement allowance recalculated using the applicable formula for determining a retirement allowance pursuant to sections 97B.49A through 97B.49G, as applicable, in place at the time of the member's termination from employment. For purposes of this section, an "eligible member" is a member who commenced receiving a retirement allowance pursuant to section 97B.48, subsection 3, prior to July 1, 2000.

Sec. 75. IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM — DEATH BENEFIT ELECTION.

1. Notwithstanding any provision of chapter 97B to the contrary, an eligible beneficiary may elect to receive a death benefit as provided by this section in an amount as authorized pursuant to section 53 of this Act. For purposes of this section, an "eligible beneficiary" means a person who is eligible to receive, or has received, a death benefit pursuant to Iowa Code section 97B.52, subsection 1, Code 1999, as a beneficiary of a member of the Iowa public employees' retirement system who died on or after January 1, 1999, but before the date section 53 of this Act is implemented pursuant to section 81 of this Act.

2. An eligible beneficiary may elect to receive a death benefit in an amount as provided in section 53 of this Act in lieu of a benefit as provided pursuant to section 97B.52, subsection 1, Code 1999, by filing a valid election with the Iowa public employees' retirement system in a manner prescribed by the system no later than one year following the date section 53 of this Act is implemented pursuant to section 81 of this Act.

3. An eligible beneficiary who has received a death benefit pursuant to section 97B.52, subsection 1, Code 1999, but who files an election to receive a death benefit as provided in this section shall make arrangements with the Iowa public employees' retirement system to repay any death benefits paid by the system to the eligible beneficiary prior to receipt of a death benefit as provided in this section.

4. The Iowa public employees' retirement system shall make all reasonable efforts to notify, in writing, each eligible beneficiary of the ability to elect to receive a death benefit as provided in this section in lieu of a death benefit provided pursuant to section 97B.52, subsection 1, Code 1999.

Sec. 76. EFFECTIVE DATE — RETROACTIVE APPLICABILITY. Section 17 of this Act, amending section 97B.1A, subsection 24, paragraph "b", being deemed of immediate importance, takes effect upon enactment and is retroactively applicable to January 1, 2000, and is applicable on and after that date.

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[2] "ELIGIBLE MEMBER RETIREMENT" probably intended

Sec. 77. EFFECTIVE DATE. Section 44 of this Act, amending section 97B.49F, subsection 2, paragraph "c", being deemed of immediate importance, takes effect upon enactment.

Sec. 78. APPLICABILITY. Section 97B.51, subsection 1, paragraph "d", subparagraph (2), as enacted in section 52 of this Act, shall be applicable on or after July 1, 2001.

Sec. 79. EFFECTIVE DATE — RETROACTIVE APPLICABILITY. Section 74 of this Act, being deemed of immediate importance, takes effect upon enactment and is retroactively applicable to January 1, 2000, and is applicable on and after that date.

Sec. 80. IMPLEMENTATION PROVISION. The department of personnel shall implement the amendment to section 97B.50, subsection 1, as provided in section 48 of this Act, on January 1, 2001, or on the date that the department determines that the most recent annual actuarial valuation of the system indicates that the employer and employee contribution rates in effect under section 97B.11 can absorb the costs of the amendment to section 97B.50, subsection 1, whichever is later, after meeting the other established priorities of the system. As used in this section, "other established priorities of the system" means the implementation of the amendment to section 97B.52, subsection 1, as provided in section 53 of this Act. However, the amendment to section 97B.50, subsection 1, shall not be implemented until the Iowa public employees' retirement system has received a determination letter from the federal internal revenue service approving the retirement system plan's qualified status under Internal Revenue Code section 401(a), as amended by section 97B.50, subsection 1. In addition, notwithstanding section 97B.49H, the department shall not credit amounts to active member supplemental accounts provided in section 97B.49H for the calendar year beginning January 1, 2001, and each subsequent calendar year, until the amendment to section 97B.50, subsection 1, is implemented.

Sec. 81. IMPLEMENTATION PROVISION. The department of personnel shall implement the amendment to section 97B.52, subsection 1, as provided in section 53 of this Act on January 1, 2001, or on the date that the department determines that the most recent annual actuarial valuation of the system indicates that the employer and employee contribution rates in effect under section 97B.11 can absorb the costs of the amendment to section 97B.52, subsection 1, whichever is later. However, notwithstanding section 97B.49H, the department shall not credit amounts to active member supplemental accounts provided in section 97B.49H for the calendar year beginning January 1, 2001, and each subsequent calendar year, until the amendment to section 97B.52, subsection 1, is implemented.

Sec. 82. IMPLEMENTATION DATE. Section 72 of this Act, creating new section 97B.82 which establishes a direct rollover for the purchase of service credit, shall not be implemented until the Iowa public employees' retirement system has received a determination letter from the federal internal revenue service approving the retirement system plan's qualified status under Internal Revenue Code section 401(a), as amended by section 97B.82.

Sec. 83. IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM — PENSION PORTABILITY STUDY — REPORT. The Iowa public employees' retirement system division shall conduct a study to consider various proposals to provide persons covered under the Iowa public employees' retirement system increased portability of pensions earned prior to coverage under the Iowa public employees' retirement system and of the pension earned under the Iowa public employees' retirement system. In conducting its study, the Iowa public employees' retirement system division shall consider proposals for allowing employees covered under the Iowa public employees' retirement system to purchase additional service credit under the Iowa public employees' retirement system based on prior public sector or private sector employment that is not covered under the system as well as proposals for enhancing the ability of employees covered under the Iowa public employees' retirement system to transfer a greater portion of the value of the pension earned under the Iowa public employees' retirement system to another pension plan upon the employee's termination of employment

covered by the Iowa public employees' retirement system. On or before September 1, 2001, the Iowa public employees' retirement system division shall file a report with the legislative service bureau, for distribution to the public retirement systems committee established in section 97D.4, which contains its findings and recommendations, including any proposal or proposals for enhancing pension portability for persons covered by the Iowa public employees' retirement system. The report shall also contain any applicable actuarial information concerning the costs of any proposal or proposals included in the report.

DIVISION III
STATEWIDE FIRE AND POLICE RETIREMENT SYSTEM

Sec. 84. Section 400.8, subsection 1, Code 1999, 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 by the medical board as established in section 411.5. The board of trustees may change the medical protocols at any time the board so determines. The ~~commission shall conduct a medical~~ 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. 85. NEW SECTION. 400.8A GUIDELINES FOR ONGOING FITNESS FOR POLICE OFFICERS AND FIRE FIGHTERS.

The board of trustees of the fire and police retirement system established by section 411.5, in consultation with the medical board established in section 411.5, shall establish and maintain protocols and guidelines for ongoing wellness and fitness for police officers and fire fighters while in service. The board of trustees may change the protocols and guidelines at any time the board so determines. The protocols and guidelines shall be established by the board of trustees for the consideration of cities covered by this chapter and may be applied by a city for the purpose of determining continued wellness and fitness for members of the city's police and fire departments. However, the protocols and guidelines shall not be applied to members of a police or fire department of a city who are covered by chapter 20 except through the collective bargaining process as provided under chapter 20. The medical board established in section 411.5 shall provide to cities and fire and police departments assistance regarding the possible implementation and operation of the protocols and guidelines for ongoing wellness and fitness provided by this section. For purposes of this section, "wellness and fitness" means the process by which police officers and fire fighters maintain fitness for duty.

Sec. 86. Section 411.1, subsection 6, Code 1999, is amended to read as follows:

6. "Child" means only surviving issue of a deceased active or retired member, or a child legally adopted by a deceased member prior to the member's retirement. "Child" includes only an individual who is under the age of eighteen years, an individual who is under the age of twenty-two years and is a full-time student, or an individual who is disabled at the

time under the definitions used in section ~~402~~ 202 of the Social Security Act as amended if the disability occurred to the individual during the time the individual was under the age of eighteen years and the parent of the individual was an active member of the system.

Sec. 87. Section 411.1, subsection 10, Code 1999, is amended to read as follows:

10. "Medical board" shall mean the ~~board of physicians~~ single medical provider network designated by the system as the medical board as provided for in section 411.5.

Sec. 88. Section 411.1, subsection 12, Code 1999, is amended to read as follows:

12. "Membership service" shall mean service as a police ~~officers~~ officer or a fire ~~fighters~~ fighter rendered ~~since last becoming a member, or, where membership is regained as provided in this chapter, all of such service~~ for a city which is credited as service pursuant to section 411.4.

Sec. 89. Section 411.1, subsection 19, Code 1999, is amended to read as follows:

19. "Surviving spouse" shall mean the surviving spouse of a ~~marriage solemnized prior to retirement of a~~ deceased member from active service. Surviving spouse shall include a former spouse only if the division of assets in the dissolution of marriage decree pursuant to section 598.17 grants the former spouse rights of a spouse under this chapter. ~~If there is no surviving spouse of a marriage solemnized prior to retirement of a deceased member, surviving spouse includes a surviving spouse of a marriage of two years or more duration solemnized subsequent to retirement of the member.~~

Sec. 90. Section 411.1A, Code 1999, is amended to read as follows:

411.1A PURPOSE OF CHAPTER.

The purpose of this chapter is to promote economy and efficiency in the municipal public safety service by ~~providing~~ doing the following:

1. Provide an orderly means for police officers and fire fighters to have a retirement system which will provide for the payment of pensions to retired members and members incurring disabilities, and to the surviving spouses and dependents of deceased members.

2. Provide a comprehensive disability program for police officers and fire fighters to include standards for entrance physical examinations, guidelines for ongoing fitness and wellness, disability pensions, and postdisability retirement compliance requirements.

Sec. 91. Section 411.3, subsection 2, Code 1999, is amended to read as follows:

2. Should any member ~~in any period of five consecutive years after last becoming a member, be absent from service for more than four years~~ cease to be employed as a police officer or fire fighter by a city, or should the member become a beneficiary or die, the member shall thereupon cease to be a member of the system.

Sec. 92. Section 411.4, Code 1999, is amended to read as follows:

411.4 SERVICE CREDITABLE.

1. Service for fewer than six months of a year is not creditable as service. Service of six months or more of a year is equivalent to one year of service, but in no case shall more than one year of service be creditable for all service in one calendar year, nor shall the system allow credit as service for any period of more than one month duration during which the member was absent without pay.

2. The system shall credit as service for a member of the system a previous period of service ~~for which the~~ only under any of the following circumstances:

a. The member had withdrawn the member's accumulated contributions, as defined in section 411.21, for the previous period of service.

b. The member returned to service after an absence of service of a period of less than four years from the last day of the prior period of service.

c. The member returned to service after an absence of service of a period of four or more years from the last day of the prior period of service and the member had sufficient service as of the last day of the prior period of service to have been entitled to a retirement allowance on that date under section 411.6, subsection 1, paragraph "b".

Sec. 93. Section 411.5, subsection 6, Code 1999, is amended by adding the following new paragraph:

NEW PARAGRAPH. c. Notwithstanding any provision of chapter 22 to the contrary, the system's records may be released to any political subdivision, instrumentality, or agency of the state solely for use in a civil or criminal law enforcement activity pursuant to the requirements of this paragraph. To obtain the records, the political subdivision, instrumentality, or agency of the state shall, in writing, certify to the system that the activity is authorized by law, provide a written description of the information desired, and describe the law enforcement activity for which the information is sought. The system shall not be civilly or criminally liable for the release of records in accordance with the requirements of this paragraph.

Sec. 94. Section 411.5, subsection 8, Code 1999, is amended to read as follows:

8. MEDICAL BOARD. The ~~system~~ board of trustees shall designate a single medical provider network as the medical board ~~to be composed of three physicians who~~ for the system. The medical board shall arrange for and pass upon all medical examinations required under the provisions of chapter 400 and this chapter~~, except that for~~ and shall assist the system in all aspects of the comprehensive disability program described in section 411.1A. For examinations required because of disability ~~three physicians~~, a physician from the ~~university of Iowa hospitals and clinics who~~ medical board specializing in occupational medicine, and a second physician specializing in an appropriate field of medicine as determined by the occupational medicine physician shall pass upon the medical examinations required for disability retirements, and shall report to the system in writing ~~its~~ their conclusions and recommendations upon all matters referred to ~~it~~ the medical board. Each report of a medical examination under section 411.6, subsections 3 and 5, shall include the medical board's findings in accordance with section 411.6 as to the extent of the member's physical impairment.

Sec. 95. Section 411.6, subsection 2, Code 1999, is amended to read as follows:

2. ALLOWANCE ON SERVICE RETIREMENT.

a. The service retirement allowance for a member who terminates service, other than by death or disability, prior to July 1, 1990, shall consist of a pension which equals fifty percent of the member's average final compensation.

b. The service retirement allowance for a member who terminates service, other than by death or disability, on or after July 1, 1990, but before July 1, 1992, shall consist of a pension which equals fifty-four percent of the member's average final compensation.

c. Commencing July 1, 1992, for members who terminate service, other than by death or disability, on or after that date, but before July 1, 2000, the system shall increase the percentage multiplier of the member's average final compensation by an additional two percent each July 1 until reaching sixty percent of the member's average final compensation. The applicable percentage multiplier shall be the rate in effect on the date of the member's termination from service.

d. Upon retirement from service on or after July 1, 2000, a member shall receive a service retirement allowance which shall consist of a pension which equals sixty-six percent of the member's average final compensation.

~~d.~~ e. Commencing July 1, 1990, if the member has completed more than twenty-two years of creditable service, the service retirement allowance shall consist of a pension which equals the amount provided in ~~paragraphs~~ paragraph "b", ~~and~~ "c", or "d", plus an additional percentage as set forth below:

(1) For a member who terminates service, other than by death or disability, on or after July 1, 1990, but before July 1, 1991, and who does not withdraw the member's contributions pursuant to section 411.23, upon the member's retirement there shall be added three-tenths percent of the member's average final compensation for each year of service over twenty-two years, excluding years of service after the member's fifty-fifth birthday. However, this subparagraph does not apply to more than eight additional years of service.

(2) For a member who terminates service, other than by death or disability, on or after July 1, 1991, but before October 16, 1992, and who does not withdraw the member's contributions pursuant to section 411.23, upon the member's retirement there shall be added six-tenths percent of the member's average final compensation for each year of service over twenty-two years, excluding years of service after the member's fifty-fifth birthday. However, this subparagraph does not apply to more than eight additional years of service.

(3) For a member who terminates service, other than by death or disability, on or after October 16, 1992, but before July 1, 1998, and who does not withdraw the member's contributions pursuant to section 411.23, upon the member's retirement there shall be added six-tenths percent of the member's average final compensation for each year of service over twenty-two years. However, this subparagraph does not apply to more than eight additional years of service.

(4) For a member who terminates service, other than by death or disability, on or after July 1, 1998, but before July 1, 2000, and who does not withdraw the member's contributions pursuant to section 411.23, upon the member's retirement there shall be added one and one-half percent of the member's average final compensation for each year of service over twenty-two years. However, this subparagraph does not apply to more than eight additional years of service.

(5) For a member who terminates service, other than by death or disability, on or after July 1, 2000, and who does not withdraw the member's contributions pursuant to section 411.23, upon the member's retirement there shall be added two percent of the member's average final compensation for each year of service over twenty-two years. However, this subparagraph does not apply to more than eight additional years of service.

Sec. 96. Section 411.6, subsection 5, paragraph b, Code 1999, is amended to read as follows:

b. If a member in service or the chief of the police or fire departments becomes incapacitated for duty as a natural or proximate result of an injury or disease incurred in or aggravated by the actual performance of duty at some definite time or place or while acting, pursuant to order, outside the city by which the member is regularly employed, the member, upon being found to be temporarily incapacitated following a medical examination as directed by the city, is entitled to receive the member's full pay and allowances from the city's general fund until re-examined as directed by the city and found to be fully recovered or until the city determines that the member is likely to be permanently disabled. ~~The~~ If the temporary incapacity of a member continues more than sixty days, or if the city expects the incapacity to continue more than sixty days, the city shall notify the system of the temporary incapacity. Upon notification by a city, the system may refer the matter to the medical board for review and consultation with the member's treating physician during the temporary incapacity. Except as provided by this paragraph, the board of trustees of the statewide system has no jurisdiction over these matters until the city determines that the disability is likely to be permanent.

Sec. 97. Section 411.6, subsection 6, paragraph c, Code 1999, is amended to read as follows:

c. Upon retirement for accidental disability on or after July 1, 1998, a member shall receive an accidental disability retirement allowance which shall consist of a pension in an amount equal to the greater of sixty percent of the member's average final compensation or the retirement allowance that the member would receive under subsection 2 if the member ~~has~~ had attained fifty-five years of age.

Sec. 98. Section 411.6, subsection 7, unnumbered paragraph 1, Code 1999, is amended to read as follows:

Once each year during the first five years following the retirement of a member on a disability retirement allowance, and once in every three-year period thereafter, the system may, and upon the member's application shall, require any disability beneficiary who has not yet attained age fifty-five to undergo a medical examination at a place designated by the

medical board. The examination shall be made by the medical board or in special cases, by an additional physician or physicians designated by such board. If any disability beneficiary who has not attained the age of fifty-five refuses to submit to the medical examination, the member's allowance may be discontinued until withdrawal of such refusal, and if the refusal continues for one year all rights in and to the member's pension may be revoked by the system. For a disability beneficiary who has not attained the age of fifty-five and whose entitlement to a disability retirement commenced on or after July 1, 2000, the medical board may, as part of the examination required by this subsection, suggest appropriate medical treatment or rehabilitation if, in the opinion of the medical board, the recommended treatment or rehabilitation would likely restore the disability beneficiary to duty.

Sec. 99. Section 411.6, subsection 7, paragraph a, unnumbered paragraph 1, Code 1999, is amended to read as follows:

Should any beneficiary for either ordinary or accidental disability, except a beneficiary who is fifty-five years of age or over ~~and would have completed twenty-two years of service if the beneficiary had remained in active service~~, be engaged in a gainful occupation paying more than the difference between the member's net retirement allowance and one and one-half times the earnable compensation of an active member at the same position on the salary scale within the member's rank as the member held at retirement, then the amount of the member's retirement allowance shall be reduced to an amount such that the member's net retirement allowance plus the amount earned by the member shall equal one and one-half times the amount of the current earnable compensation of an active member at the same position on the salary scale within the member's rank as the member held at retirement. Should the member's ~~earning capacity~~ earnings be later changed, the amount of the member's retirement allowance may be further modified, provided that the new retirement allowance shall not exceed the amount of the retirement allowance adjusted by annual readjustments of pensions pursuant to subsection 12 of this section nor an amount which would cause the member's net retirement allowance, when added to the amount earned by the beneficiary, to equal one and one-half times the amount of the earnable compensation of an active member at the same position on the salary scale within the member's rank as the member held at retirement. A beneficiary restored to active service at a salary less than the average final compensation upon the basis of which the member was retired at age fifty-five or greater, shall not again become a member of the retirement system and shall have the member's retirement allowance suspended while in active service. If the rank or position held by the retired member is subsequently abolished, adjustments to the allowable limit on the amount of income which can be earned in a gainful occupation shall be computed by the board of trustees as though such rank or position had not been abolished and salary increases had been granted to such rank or position on the same basis as increases granted to other ranks and positions in the department. For purposes of this paragraph, "net retirement allowance" means the amount determined by subtracting the amount paid during the previous calendar year by the beneficiary for health insurance or similar health care coverage for the beneficiary and the beneficiary's dependents from the amount of the member's retirement allowance paid for that year pursuant to this chapter. The beneficiary shall submit sufficient documentation to the system to permit the system to determine the member's net retirement allowance for the applicable year.

Sec. 100. Section 411.6, subsection 7, Code 1999, is amended by adding the following new paragraph:

NEW PARAGRAPH. c. Should a disability beneficiary under age fifty-five be employed in a public safety occupation, the disability beneficiary's retirement allowance shall cease. Notwithstanding any provision of this chapter to the contrary, if a disability beneficiary is employed in a public safety occupation that would otherwise constitute membership service, the disability beneficiary shall not become a member of the system. For purposes of this

paragraph, "public safety occupation" means a peace officer, as defined in section 97A.1; a protection occupation, as defined in section 97B.49B; a sheriff, deputy sheriff, or airport fire fighter, as defined in section 97B.49C; and a police officer or fire fighter as defined in section 411.1, who was not restored to active service as provided by this subsection.

Sec. 101. Section 411.6, subsection 8, Code 1999, is amended to read as follows:

8. ORDINARY DEATH BENEFIT.

a. Upon the receipt of proof of the death of a member in service, or a member not in service who has completed four or more years of service as provided in subsection 1, paragraph "b", there shall be paid to the person designated by the member to the system as the member's beneficiary, if the member has had one or more years of membership service and no pension is payable under subsection 9, ~~an~~ the greater of the following:

(1) An amount equal to fifty percent of the compensation earnable by the member during the year immediately preceding the member's death if the member is in service, or an amount equal to fifty percent of the compensation earned by the member during the member's last year of service if the member is not in service.

(2) An amount the member would have been entitled to withdraw pursuant to section 411.23 if the member had terminated service on the date of the member's death.

b. In lieu of the payment specified in paragraph "a", a beneficiary meeting the qualifications of paragraph "c" may elect to receive a monthly pension equal to one-twelfth of forty percent of the average final compensation of the member, but not less than twenty percent of the monthly earnable compensation paid to an active member holding the highest grade in the rank of fire fighter, for a beneficiary of a deceased member of a fire department, or the highest grade in the rank of police patrol officer, for a beneficiary of a deceased member of a police department, if the member was in service at the time of death. For a member not in service at the time of death, the pension shall be reduced as provided in subsection 1, paragraph "b".

For a member not in service at the time of death, the pension shall be paid commencing when the member would have attained the age of fifty-five except that if there is a child of the member, the pension shall be paid commencing with the member's death until the ~~children reach the age of eighteen, or twenty-two if applicable~~ child of the member no longer meets the definition of child as provided in section 411.1. The pension shall resume ~~commencing~~ when the member would have attained the age of fifty-five.

For a member in service at the time of death, the pension shall be paid commencing with the member's death. In addition to the pension, there shall also be paid for each child of a member, a monthly pension equal to six percent of the monthly earnable compensation paid to an active member holding the highest grade in the rank of fire fighter, for a child of a deceased member of a fire department, or the highest grade in the rank of police patrol officer, for a child of a deceased member of a police department.

Notwithstanding section 411.6, subsection 8, Code 1985, effective July 1, 1990, for a member's surviving spouse who, prior to July 1, 1986, elected to receive pension benefits under this paragraph, the monthly pension benefit shall be equal to the higher of one-twelfth of forty percent of the average final compensation of the member, or the amount the surviving spouse was receiving on July 1, 1990.

c. The pension under paragraph "b" may be selected only by the following beneficiaries:

(1) The spouse.

(2) If there is no spouse, or if the spouse dies and there is a child of a member, then the ~~guardian of the~~ member's child or children, ~~divided as the system determines, to continue as a joint and survivor pension until every child of the member dies or attains the age of eighteen, or twenty-two if applicable~~ in equal shares. The pension to each child shall terminate when the child no longer meets the definition of child in section 411.1.

(3) If there is no surviving spouse or child, then the member's dependent father or mother, or both, as the system determines, to continue until remarriage or death.

d. If ~~there is no nomination of~~ the member failed to designate a beneficiary, or if the beneficiary designated by the member predeceases the member, the benefits provided in paragraph "a" of this subsection shall be paid ~~to the member's estate.~~ as follows in the following order of priority:

(1) To the member's surviving spouse.

(2) To the member's surviving children, including any adult children, in equal shares.

(3) To the member's surviving parents, in equal shares.

(4) To the member's estate.

(5) To the member's heirs if the estate is not probated.

Sec. 102. Section 411.6, subsection 9, Code 1999, is amended to read as follows:

9. ACCIDENTAL DEATH BENEFIT.

a. If, upon the receipt of evidence and proof from the chief of the police or fire department that the death of a member in service was the natural and proximate result of an injury or disease incurred in or aggravated by the actual performance of duty at some definite time and place, or while acting pursuant to order, outside of the city by which the member is regularly employed, the system decides that death was so caused in the performance of duty, there shall be paid, in lieu of the ordinary death benefit provided in subsection 8, ~~to the member's estate or to such person having an insurable interest in the member's life as the member has nominated by written designation duly executed and filed with the system, the benefits~~ an accidental death benefit as set forth in ~~paragraphs "a" and "b" of~~ this subsection~~:~~. Disease under this subsection shall mean heart disease or any disease of the lungs or respiratory tract and shall be presumed to have been contracted while on active duty as a result of strain or the inhalation of noxious fumes, poison, or gases.

~~a.~~ b. ~~A~~ An accidental death benefit pension equal to one-half of the average final compensation of the member shall be paid ~~to the member's spouse, children or dependent parents as provided in paragraphs "c", "d", and "e" of subsection 8 of this section. There~~ as follows:

(1) To the member's spouse.

(2) If there is no spouse, or if the spouse dies and there is a child of the member, then to the member's child or children in equal shares. The pension to each child shall terminate when the child no longer meets the definition of child in section 411.1.

(3) If there is no surviving spouse or child, then to the member's dependent father or mother, or both, as the system determines, to continue until remarriage or death.

c. In addition to the accidental death benefit pension provided in paragraph "b", there shall also be paid for each child of a member a monthly pension equal to six percent of the monthly earnable compensation paid to an active member holding the highest grade in the rank of fire fighter, for a child of a deceased member of a fire department, or holding the highest grade in the rank of police patrol officer, for a child of a deceased member of a police department.

d. A person eligible to receive the pension payable under paragraph "b" of this subsection may elect to receive the benefit payable under subsection 8, paragraph "a", in lieu of the pension provided in paragraph "b" of this subsection.

~~b.~~ e. If there is no ~~spouse, child, or dependent parent surviving a deceased member~~ person entitled to the pension payable under paragraph "b" of this subsection, the death shall be treated as an ordinary death case and the benefit payable under subsection 8, paragraph "a", in lieu of the pension provided in paragraph "a" of this subsection, shall be paid ~~to the member's estate~~ as provided by that subsection.

~~Disease under this subsection shall mean heart disease or any disease of the lungs or respiratory tract and shall be presumed to have been contracted while on active duty as a result of strain or the inhalation of noxious fumes, poison, or gases.~~

Sec. 103. Section 411.6, subsection 11, Code 1999, is amended to read as follows:

11. Pension to spouse and children of deceased pensioned member. In the event of the death of any member receiving a retirement allowance under the provisions of subsections 2, 4, or 6 of this section there shall be paid a pension:

a. To the spouse, equal to one-half the amount received by the deceased beneficiary, but in no instance less than twenty percent of the monthly earnable compensation paid to an active member holding the highest grade in the rank of fire fighter, for a beneficiary of a deceased member of the fire department, or the highest grade in the rank of police patrol officer, for a beneficiary of a deceased member of a police department, and in addition a monthly pension equal to the monthly pension payable under subsection 9 of this section for each child ~~under eighteen years of age or twenty-two years of age if applicable~~; or

b. If the spouse dies either prior or subsequent to the death of the member, to the guardian of each surviving child, a monthly pension equal to the monthly pension payable under subsection 9 of this section for the support of the child.

Sec. 104. Section 411.6, Code 1999, is amended by adding the following new subsection:

NEW SUBSECTION. 14. BENEFICIARY DESIGNATION. A member may designate, in writing on a form prescribed by the system, any person or persons to whom the system will pay a death benefit under this section in the event of the member's death. If the member is married at the time a designation is signed, a designation of a beneficiary other than the member's spouse shall not be valid unless the member's spouse consents in writing to the designation. A designation filed with the system shall be deemed revoked if, subsequent to the designation, a new designation is filed with the system, the member marries, or the member divorces the individual who was the member's named beneficiary.

Sec. 105. Section 411.6, Code 1999, is amended by adding the following new subsection:

NEW SUBSECTION. 15. LINE OF DUTY DEATH BENEFIT.

a. If, upon the receipt of evidence and proof from the chief of the police or fire department that the death of a member in service was the direct and proximate result of a traumatic personal injury incurred in the line of duty, the system decides that death was so caused, there shall be paid, to a person authorized to receive an accidental death benefit as provided in subsection 9, paragraph "b", the amount of one hundred thousand dollars, which shall be payable in a lump sum.

b. A line of duty death benefit shall not be payable under this subsection if any of the following applies:

(1) The death resulted from stress, strain, occupational illness, or a chronic, progressive, or congenital illness, including, but not limited to, a disease of the heart, lungs, or respiratory system, unless a traumatic personal injury was a substantial contributing factor to the member's death.

(2) The death was caused by the intentional misconduct of the member or by the member's intent to cause the member's own death.

(3) The member was voluntarily intoxicated at the time of death.

(4) The member was performing the member's duties in a grossly negligent manner at the time of death.

(5) An individual who would otherwise be entitled to a benefit under this subsection was, through the individual's actions, a substantial contributing factor to the member's death.

Sec. 106. Section 411.6, Code 1999, is amended by adding the following new subsection:

NEW SUBSECTION. 16. INELIGIBILITY FOR DISABILITY BENEFITS.

a. A member otherwise eligible to receive a disability retirement benefit under this chapter shall not be eligible to receive such a benefit if the system determines that any of the following conditions for ineligibility apply:

(1) The disability would not exist but for the member's chemical dependency, as defined in section 125.2, on a schedule I controlled substance, as defined in section 124.204, or the member's chemical dependency on a schedule II controlled substance, as defined in section 124.206, resulting from the inappropriate use of the schedule II controlled substance.

(2) The disability is a mental disability proximately caused by appropriate disciplinary actions taken against the member, or by conflicts with a superior or coworker if the superior or coworker was acting legally and appropriately toward the member when the conflicts occurred.

b. A member otherwise eligible to receive a disability retirement benefit under this chapter, or who is receiving such a benefit, shall not be eligible to receive such a benefit beginning with the month following the determination by the system that the disability would not exist but for the action of the member for which the member has been convicted of a felony.

c. A member eligible to commence receiving a disability benefit on or after July 1, 2000, may be ineligible to receive a disability retirement benefit if the system determines that the member's alcoholism or drug addiction was a contributing factor material to the determination of the member's disability. Upon a determination that the member's alcoholism or drug addiction was a contributing factor in the member's disability, the system shall direct the member to undergo substance abuse treatment that the medical board determines is appropriate to treat the member's alcoholism or drug addiction. After the end of a twenty-four-month period following the member's first month of entitlement to a disability benefit, the system shall reevaluate the member's disability. If the system determines that the member failed to comply with the treatment program prescribed by this paragraph and that the member would not be disabled but for the member's alcoholism or drug addiction, the member's entitlement to a disability benefit under this chapter shall terminate effective the first day of the first month following the month the member is notified of the system's determination.

Sec. 107. Section 411.6, Code 1999, is amended by adding the following new subsection:

NEW SUBSECTION. 17. LIMITATIONS ON BENEFITS — PRISONERS.

a. An individual who is otherwise entitled to a retirement allowance under this chapter shall not receive a retirement allowance for any month during which both of the following conditions exist:

(1) The individual is confined in a jail, prison, or correctional facility pursuant to the individual's conviction of a felony.

(2) The individual has a spouse, or a child or children, as defined in section 411.1.

b. The amount of the retirement allowance not paid to the individual under paragraph "a" shall be paid in the following order of priority:

(1) To the individual's spouse, if any.

(2) If there is no spouse, then to the individual's child or children, as defined in section 411.1.

c. This subsection shall not be construed in a manner that impairs the rights of any individual under a marital property, spousal support, or child support order. In addition, this subsection shall not be construed to impair the statutory rights of a governmental entity, including, but not limited to, the right of a governmental entity to collect an amount for deposit in the victim compensation fund established in chapter 915.

Sec. 108. Section 411.11, Code 1999, is amended to read as follows:

411.11 CONTRIBUTIONS BY THE CITY.

1. On or before January 1 of each year the system shall certify to the superintendent of public safety of each participating city the amounts which will become due and payable during the year next following to the fire and police retirement fund. The amounts so certified shall be included by the superintendent of public safety in the annual budget estimate. The amounts so certified shall be appropriated by the respective cities and transferred to the retirement system for the ensuing year. The cities shall annually levy a tax sufficient in amount to cover the appropriations.

2. Amounts paid by a city to a member as back pay that would have constituted earnable compensation if paid when earned shall be allocated by the system as earnable compensation to the period or periods for which paid and employer and employee contributions shall be paid to the system for the amounts. The contribution rate to be applied to such amounts shall be determined pursuant to section 411.8 based on the rates in effect for the period or periods to which the amounts are allocated. Interest on the contributions required to be paid shall be calculated pursuant to this section as if the contributions were unpaid as of the date the contributions would have been due if the back pay had been paid to the member during the period in which it was due. The requirements of this subsection apply regardless of

whether the back pay is made under a covenant not to sue, compromise settlement, denial of liability, or other agreement between the member and the employer.

3. Contributions unpaid on the date on which they are due and payable as prescribed by the system shall bear interest at the greater of the interest rate assumption adopted by the board of trustees or the rate of interest on the short-term investment fund account of the system's custodial bank for the period the contributions remain unpaid. Interest due pursuant to this section may be waived by the system pursuant to rules adopted by the board. Interest collected pursuant to this section shall be paid into the retirement fund created in section 411.8.

4. If an employer fails to pay contributions or interest as required by this chapter after receiving thirty days' notice of the employer's obligation, the system may maintain a civil action to collect the unpaid contributions and interest from the employer, which action shall be heard as expeditiously as possible. If the system prevails in the civil action to recover unpaid contributions and interest, the court shall require the employer to pay the costs of the action.

Sec. 109. Section 411.22, Code 1999, is amended to read as follows:

411.22 LIABILITY OF THIRD PARTIES — SUBROGATION.

1. If a member receives an injury or dies for which benefits are payable under section 411.6, subsection 3, ~~or~~ 5, 8, or 9, or section 411.15, and if the injury or death is caused under circumstances creating a legal liability for damages against a third party other than the retirement system, the retirement system is subrogated to the rights of the member or the member's legal representative[3] beneficiary entitled to receive a death benefit and may maintain an action for damages against the third party for lost earnings and lost earnings capacity. If the retirement system recovers damages in the action, the court shall enter judgment for distribution of the recovery as follows:

a. A sum sufficient to repay the retirement system for the amount of such benefits actually paid by the retirement system up to the time of the entering of the judgment.

b. A sum sufficient to pay the retirement system the present worth, computed at the interest rate provided in section 535.3 for court judgments and decrees, of the future payments of such benefits, for which the retirement system is liable, but the sum is not a final adjudication of the future payments which the member is entitled to receive.

c. A sum sufficient to repay the retirement system for the costs and expenses of maintaining the action.

d. Any balance remaining after the repayments provided by paragraphs "a" through "c" shall be paid to the injured member, or the beneficiary under section 411.6, subsection 8 or 9, whichever is applicable.

2. If the system, after receiving written notice of the third-party liability, declines in writing to maintain an action against the third party or fails to maintain an action within one hundred eighty days of receiving written notice of the third-party liability, the member, the member's estate, or the legal representative of the member or the member's estate, may maintain an action for damages against the third party. If ~~a member or a member's legal representative commences~~ such an action is commenced, the plaintiff member, estate, or representative shall serve a copy of the original notice upon the retirement system not less than ten days before the trial of the action, but a failure to serve the notice does not prejudice the rights of the retirement system, and the following rights and duties ensue:

a. The retirement system shall be indemnified out of the recovery of damages to the extent of benefit payments ~~made~~ paid or awarded by the retirement system, with legal interest, except that the plaintiff member's or estate's attorney fees may be first allowed by the district court. For purposes of this paragraph, "benefit payments paid or awarded" means the sum of the following amounts:

(1) The amount of benefits actually paid by the retirement system up to the time of the entering of the judgment.

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[3] See chapter 1232, §69 herein

(2) The present worth, computed at the interest rate provided in section 535.3 for court judgments and decrees, of the future payments of such benefits, for which the retirement system is liable, but the sum is not a final adjudication of the future payments which the member is entitled to receive.

b. The retirement system has a lien on the damage claim against the third party and on any judgment on the damage claim for benefits for which the retirement system is liable. In order to continue and preserve the lien, the retirement system shall file a notice of the lien within thirty days after receiving a copy of the original notice in the office of the clerk of the district court in which the action is filed.

~~2. If a member fails to bring an action for damages against a third party within thirty days after the retirement system requests the member in writing to do so, the retirement system is subrogated to the rights of the member and may maintain the action against the third party, and may recover damages for the injury to the same extent that the member may recover damages for the injury. If the retirement system recovers damages in the action, the court shall enter judgment for distribution of the recovery as follows:~~

~~a. A sum sufficient to repay the retirement system for the amount of such benefits actually paid by the retirement system up to the time of the entering of the judgment.~~

~~b. A sum sufficient to pay the retirement system the present worth, computed at the interest rate provided in section 535.3 for court judgments and decrees, of the future payments of such benefits, for which the retirement system is liable, but the sum is not a final adjudication of the future payments which the member is entitled to receive.~~

~~c. Any balance shall be paid to the member.~~

3. Before a settlement is effective between the retirement system and a third party who is liable for an injury or death, the member or beneficiary must consent in writing to the settlement; and if the settlement is between the member or the member's estate and a third party, the retirement system must consent in writing to the settlement; or on refusal to consent, in either case, the district court in the county in which either the city or the retirement system is located must consent in writing to the settlement.

4. For purposes of subrogation under this section, a payment made to an injured member, a member's estate, or the ~~member's~~ legal representative of the member or member's estate, by or on behalf of a third party or the third party's principal or agent, who is liable for, connected with, or involved in causing the injury ~~to~~ or death of the member, shall be considered paid as damages because the injury or death was caused under circumstances creating a legal liability against the third party, whether the payment is made under a covenant not to sue, compromise settlement, denial of liability, or is otherwise made.

Sec. 110. EFFECTIVE DATE — RETROACTIVE APPLICABILITY. Sections 88, 91, 92, 105, and 108 of this Act, amending section 411.1, subsection 12; section 411.3; section 411.4; section 411.6, by creating new subsection 15; and section 411.11, being deemed of immediate importance, take effect upon enactment and are retroactively applicable to January 1, 1992, and are applicable on and after that date.

Sec. 111. EFFECTIVE DATE. Section 87 of this Act amending section 411.1, subsection 10, and section 94 of this Act, amending section 411.5, subsection 8, take effect July 1, 2001.

DIVISION IV
JUDICIAL RETIREMENT SYSTEM

Sec. 112. Section 602.9104, subsection 1, Code 1999, is amended to read as follows:

1. A judge to whom this article applies, shall be paid an amount equal to ~~ninety-six~~ ninety-five percent of the basic salary of the judge as set by the general assembly. An amount equal to ~~four~~ five percent of the basic salary of the judge as set by the general assembly is designated as the judge's contribution to the judicial retirement fund, and shall be paid by the state in the manner provided in subsection 2.

Sec. 113. Section 602.9104, subsection 4, paragraph a, subparagraph (2), Code 1999, is amended to read as follows:

(2) "Fully funded status" means that the most recent actuarial valuation reflects that, using the ~~aggregate cost~~ projected unit credit method in accordance with generally recognized and accepted actuarial principles and practices set forth by the American academy of actuaries, the funded status of the system is at least one hundred percent.

Sec. 114. Section 602.9104, subsection 4, paragraph b, Code 1999, is amended to read as follows:

b. Effective with the fiscal year commencing July 1, 1994, and for each subsequent fiscal year until the system attains fully funded status, based upon the benefits provided for judges through the judicial retirement system as of July 1, 2001, the state shall contribute annually to the judicial retirement fund an amount equal to at least twenty-three and seven-tenths percent of the basic salary of all judges covered under this article. Commencing with the first fiscal year in which the system attains fully funded status, based upon the benefits provide[4] for judges through the judicial retirement system as of July 1, 2001, and for each subsequent fiscal year, the state shall contribute to the judicial retirement fund the required contribution rate. The state's contribution shall be appropriated directly to the judicial retirement fund.

Sec. 115. Section 602.9107, subsection 1, Code 1999, is amended to read as follows:

1. a. The annual annuity of a judge under this system is an amount equal to three percent of the judge's average annual basic salary for the judge's last three years as a judge of one or more of the courts included in this article, multiplied by the judge's years of service as a judge of one or more of the courts for which contributions were made to the system. However, an annual annuity shall not exceed an amount equal to a specified percentage of the basic annual salary which the judge is receiving at the time the judge becomes separated from service. Forfeitures shall not be used to increase the annuities a judge or survivor would otherwise receive under the system.

b. "Specified percentage", for purposes of this section, means as follows:

(1) For judges who retire and receive an annuity prior to July 1, 1998, the specified percentage shall be fifty percent.

(2) For judges who retire and receive an annuity on or after July 1, 1998, but before July 1, 2000, the specified percentage shall be fifty-two percent.

(3) For judges who retire and receive an annuity on or after July 1, 2000, but before July 1, 2001, the specified percentage shall be fifty-six percent.

(4) For judges who retire and receive an annuity on or after July 1, 2001, the specified percentage shall be sixty percent.

Sec. 116. Section 602.9204, Code Supplement 1999, is amended to read as follows:

602.9204 SALARY — ANNUITY OF SENIOR JUDGE AND RETIRED SENIOR JUDGE.

1. A judge who retires on or after July 1, 1994, and who is appointed a senior judge under section 602.9203 shall be paid a salary as determined by the general assembly. A senior judge or retired senior judge shall be paid an annuity under the judicial retirement system in the manner provided in section 602.9109, but computed under this section in lieu of section 602.9107, as follows: The annuity paid to a senior judge or retired senior judge shall be an amount equal to three percent of the basic senior judge salary, multiplied by the judge's years of service prior to retirement as a judge of one or more of the courts included under this article, for which contributions were made to the system, except the annuity of the senior judge or retired senior judge shall not exceed ~~fifty percent~~ an amount equal to the applicable specified percentage of the basic senior judge salary used in calculating the annuity. However, following the twelve-month period during which the senior judge or retired senior judge attains seventy-eight years of age, the annuity paid to the person shall be an amount equal to three percent of the basic senior judge salary cap, multiplied by the judge's years of

[4] According to enrolled Act

service prior to retirement as a judge of one or more of the courts included under this article, for which contributions were made to the system, except that the annuity shall not exceed ~~fifty percent~~ an amount equal to the applicable specified percentage of the basic senior judge salary cap. A senior judge or retired senior judge shall not receive benefits calculated using a basic senior judge salary established after the twelve-month period in which the senior judge or retired senior judge attains seventy-eight years of age. The state shall provide, regardless of age, to an active senior judge or a senior judge with six years of service as a senior judge and to the judge's spouse, and pay for medical insurance until the judge attains the age of seventy-eight years.

2. As used in this section, unless the context otherwise requires:

a. "Applicable specified percentage" means, for a senior judge or retired senior judge, the specified percentage, as defined in section 602.9107, subsection 1, that applied on the date the judge was separated from full-time service.

~~a.~~ b. "Basic senior judge salary" means the basic annual salary which the judge is receiving at the time the judge becomes separated from full-time service, as would be used in computing an annuity pursuant to section 602.9107 without service as a senior judge, plus seventy-five percent of the escalator.

~~b.~~ c. "Basic senior judge salary cap" means the basic senior judge salary, at the end of the twelve-month period during which the senior judge or retired senior judge attained seventy-eight years of age, of the office in which the person last served as a judge before retirement as a judge or senior judge.

~~c.~~ d. "Escalator" means the difference between the current basic salary, as of the time each payment is made up to and including the twelve-month period during which the senior judge or retired senior judge attains seventy-eight years of age, of the office in which the senior judge last served as a judge before retirement as a judge or senior judge, and the basic annual salary which the judge is receiving at the time the judge becomes separated from full-time service as a judge of one or more of the courts included in this article, as would be used in computing an annuity pursuant to section 602.9107 without service as a senior judge.

Sec. 117. JUDICIAL RETIREMENT SYSTEM — LEGISLATIVE INTENT — NOTIFICATION — REPORT.

1. It is the intent of the general assembly that once the judicial retirement system attains fully funded status based upon the benefits provided for judges through July 1, 2001, the employer and employee contribution rates established to fund the judicial retirement system should be adjusted to reflect the ratio of employer and employee contribution rates required under the Iowa public employees' retirement system.

2. The state court administrator shall notify, in writing, the public retirement systems committee established in section 97D.4, when the state court administrator anticipates that the judicial retirement system is within two additional fiscal years of attaining fully funded status as defined in section 602.9104 based upon the benefits provided for judges through July 1, 2001. In addition, the state court administrator shall, following the notification to the committee as provided in this section and in consultation with the Iowa judges association, conduct a study and submit a report, including its findings and recommendations, to the public retirement systems committee prior to the next scheduled meeting of the committee concerning appropriate methods of adequately financing the judicial retirement system once the system reaches fully funded status. In conducting the study, the state court administrator shall consider, and make recommendations concerning, the appropriateness of funding the judicial retirement system by establishing employer and employee contribution rates which shall maintain the actuarial soundness of the system and which shall reflect the intent of the general assembly as contemplated in subsection 1.

Sec. 118. FIRE FIGHTER AND EMERGENCY MEDICAL SERVICES PROVIDER BENEFITS — REPORT. The department of management shall conduct a study concerning the possible implementation of a system to provide retirement benefits to volunteer fire fighters

and emergency medical service personnel and to provide death and survivor benefits, including but not limited to providing for payment of postsecondary education expenses of dependent children, when a volunteer fire fighter or emergency medical service provider dies in the line of duty. The study shall examine what benefits should be provided, if any, as well as possible funding mechanisms to provide any such proposed benefits, including the use of excess insurance premium tax receipts, but excluding the fire and police retirement fund created in section 411.8. In conducting the study, the department shall consult with the department of public safety; the department of personnel; and representatives from the Iowa firemen's association; the Iowa fire chief's association; the Iowa association of professional firefighters; the Iowa association of professional fire chiefs; the Iowa firefighters group; the state fire service and emergency response council, if established by law, or the fire service institute advisory committee established by section 266.46; the Iowa emergency medical services association; and the Iowa league of cities. The department shall submit a report concerning the results of its study, including any findings and recommendations, to the general assembly by January 8, 2001.

Approved April 12, 2000

CHAPTER 1078

RURAL WATER DISTRICT INFRASTRUCTURE FINANCING

H.F. 2027

AN ACT relating to the construction or acquisition of infrastructure by rural water districts by providing for financing and exempting certain debt instruments from taxation.

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

Section 1. Section 357A.11, subsection 9, Code 1999, is amended to read as follows:

9. Finance all or part of the cost of the construction or purchase of a project necessary to carry out the purposes for which the district is incorporated or to refinance all or part of the original cost of that project, including, but not limited to, obligations originated by the district as a nonprofit corporation under chapter 504A and assumed by the district reorganized under this chapter. Financing or refinancing carried out under this subsection shall be in accordance with the terms and procedures set forth in the applicable provisions of sections 384.24A, 384.83 through 384.88, 384.92, and 384.93. References in these sections to a city shall be applicable to a rural water district operating under this chapter, and references in that division to a city council shall be applicable to the board of directors of a rural water district. This subsection shall not create a lien against the property of a person who is not a rural water subscriber.

Sec. 2. Section 357A.15, unnumbered paragraph 1, Code 1999, is amended to read as follows:

~~No~~ A district shall not have ~~any~~ power to levy any taxes. ~~Neither the~~ The facilities constructed or otherwise acquired by ~~any~~ a district, including but not limited to ponds, reservoirs, pipelines, wells, check dams, and pumping installations, the revenues obtained by the

district from the sale of water, ~~nor~~ and the revenue bonds or notes, or interest ~~therefrom~~ from the revenue bonds or notes, issued by ~~any~~ a district shall not be taxable in any manner by the state ~~of Iowa~~ or any of its political subdivisions.

Approved April 12, 2000

CHAPTER 1079

BUSINESS TELEPHONE LISTINGS

H.F. 2148

AN ACT prohibiting the use of a telephone listing that misrepresents the name and location of a business and making penalties applicable.

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

Section 1. Section 714.16, subsection 2, Code 1999, is amended by adding the following new paragraph:

NEW PARAGRAPH. n. (1) It is an unlawful practice for a person to misrepresent the geographic location of a supplier or a service or product by listing a fictitious business name or an assumed business name in a local telephone directory or directory assistance database if all of the following apply:

(a) The name purportedly represents the geographic location of the supplier.

(b) The listing does not identify the address, including the city and state, of the supplier.

(c) Calls made to a local telephone number are routinely forwarded to or otherwise transferred to a business location that is outside the local calling area covered by the local telephone directory or directory assistance database.

(2) A telephone company, provider of directory assistance, publisher of a local telephone directory, or officer, employee, or agent of such company, provider, or publisher shall not be liable in a civil action under this section for publishing in any directory or directory assistance database the listing of a fictitious or assumed business name of a person in violation of subparagraph (1) unless the telephone company, directory assistance provider, directory publisher, or officer, employee, or agent of the company, provider, or publisher is the person committing such violation.

(3) For purposes of this paragraph:

(a) "Local telephone directory" means a telephone classified advertising directory or the business section of a telephone directory that is distributed free of charge to some or all telephone subscribers in a local area directory.[1]

(b) "Local telephone number" means a telephone number that has a three-number prefix used by the provider of telephone service for telephone customers physically located within the area covered by the local telephone directory in which the number is listed. The term does not include long distance numbers or 800, 888, or 900 exchange numbers listed in the telephone directory.

Approved April 12, 2000

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[1] See chapter 1232, §85 herein

CHAPTER 1080

NATURAL GAS PIPELINE CONSTRUCTION — LAND RESTORATION

H.F. 2247

AN ACT relating to land restoration requirements for interstate natural gas pipeline construction projects.

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

Section 1. Section 479A.14, subsection 12, Code Supplement 1999, is amended by striking the subsection.

Approved April 12, 2000

CHAPTER 1081

OPERATION RECOGNITION PROGRAM — WORLD WAR II VETERANS

H.F. 2280

AN ACT requiring the director of the department of education to develop and administer an operation recognition program.

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

Section 1. Section 256.9, Code Supplement 1999, is amended by adding the following new subsection:

NEW SUBSECTION. 49. Develop and administer, with the cooperation of the commission of veterans affairs, a program which shall be known as "operation recognition". The purpose of the program is to award high school diplomas to World War II veterans who left high school prior to graduation to enter United States military service. The department and the commission shall jointly develop an application procedure, distribute applications, and publicize the program to school districts, accredited nonpublic schools, county commissions of veterans affairs, veterans organizations, and state, regional, and local media. All honorably discharged World War II veterans who are residents or former residents of the state, who served between September 16, 1940, and December 31, 1946, and who did not return to school and complete their education after the war shall be eligible to receive a diploma. Diplomas may be issued posthumously. Upon approval of an application, the department shall issue an honorary high school diploma for an eligible veteran. The diploma shall indicate the veteran's school of attendance. The department and the commission shall work together to provide school districts, schools, communities, and county commissions of veterans affairs with information about hosting a diploma ceremony on or around Veterans Day. The diploma shall be mailed to the veteran or, if the veteran is deceased, to the veteran's family.

Approved April 12, 2000

CHAPTER 1082

COMPOST MATERIAL AND ORGANIC AGRICULTURAL PRODUCTS

H.F. 2494

AN ACT providing for the application of compost material to land for use for the production of organic agricultural products.

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

Section 1. Section 200.3, Code 1999, is amended by adding the following new subsection:
NEW SUBSECTION. 15A. "Organic agricultural product" means the same as defined in section 190C.1.

Sec. 2. Section 200.20, Code 1999, is amended to read as follows:
200.20 PHOSPHORIC ACID, NITROGEN AND POTASH REQUIREMENTS.
1. ~~No phosphatic~~ Except as provided in subsection 2, a person shall not sell, offer for sale, or distribute, any of the following:
a. Phosphatic fertilizer containing less than eighteen percent available phosphoric acid (P205)~~, nor any nitrogen~~.
b. Nitrogen fertilizer containing less than fifteen percent total nitrogen (N)~~, nor any potash~~.
c. Potash fertilizer containing less than fifteen percent soluble potash (K2O)~~, nor any mixed~~.
d. Mixed fertilizer in which the sum of the guaranteed analysis of total nitrogen (N), available phosphoric acid (P2O5), and soluble potash (K2O), totals less than twenty percent ~~shall be offered for sale, sold, or distributed in this state~~. ~~This section~~
2. Subsection 1 shall ~~neither~~ not apply to ~~specialty fertilizers as defined in section 200.3, subsection 23, nor to~~ any of the following:
a. A specialty fertilizer.
b. A fertilizer designed to be applied and ordinarily applied directly to growing plant foliage to stimulate further growth.
c. Compost materials to be applied on land, if any of the following apply:
(1) The land is being used to produce an agricultural commodity that is an organic agricultural product as provided in chapter 190C, including rules adopted by the department under that chapter.
(2) The land is in the transition of being used to produce an agricultural commodity that is an organic agricultural product, pursuant to rules adopted by the department as provided in chapter 190C.

Approved April 12, 2000

CHAPTER 1083

RENT CONTROL ORDINANCES

S.F. 428

AN ACT relating to the authority of cities and counties to adopt rent control ordinances.

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

Section 1. Section 331.304, Code Supplement 1999, is amended by adding the following new subsection:

NEW SUBSECTION. 11. A county shall not adopt or enforce any ordinance imposing any limitation on the amount of rent that can be charged for leasing private residential or commercial property. This subsection does not prevent the right of a county to manage and control residential property in which the county has a property interest.

Sec. 2. Section 364.3, Code Supplement 1999, is amended by adding the following new subsection:

NEW SUBSECTION. 9. A city shall not adopt or enforce any ordinance imposing any limitation on the amount of rent that can be charged for leasing private residential or commercial property. This subsection does not prevent the right of a city to manage and control residential property in which the city has a property interest.

Approved April 13, 2000

CHAPTER 1084

COUNTY WARRANTS

S.F. 2047

AN ACT relating to the powers and duties of county officers with respect to county warrants.

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

Section 1. Section 331.506, subsection 1, Code 1999, is amended to read as follows:

1. a. Except as provided in subsections 2 and 3, the auditor shall prepare and sign ~~or issue~~ a county warrant only after ~~approval~~ issuance of the warrant has been approved by the board by recorded vote. Each warrant shall be numbered and the date, amount, number, name of the person to whom issued, and the purpose for which the warrant is issued, shall be entered in the county system. Each warrant shall be made payable to the person performing the service or furnishing the supplies for which the warrant makes payment.

b. The auditor shall not issue a warrant to a drawee until the auditor has transmitted to the treasurer a list of the warrants to be issued. The list shall include the date, amount, and number of the warrant, name of the person to whom the warrant is issued, and the purpose for which the warrant is issued. The treasurer shall acknowledge receipt of the list by affixing the treasurer's signature at the bottom of the list and immediately returning the list to the auditor. The requirement that the treasurer sign to acknowledge receipt of the list is satisfied by use of a digital signature or other secure electronic signature if the county auditor and treasurer have complied with the applicable provisions of chapter 554C.

c. The warrant list signed by the treasurer shall be preserved by the auditor for at least two years. The requirement that the list be preserved is satisfied by preservation of the list in electronic form if the requirements of section 554C.205 are met.

d. The requirement that the county auditor sign a warrant is satisfied by use of a digital signature or other secure electronic signature if the county auditor has complied with the applicable provisions of chapter 554C.[1]

e. In lieu of the auditor issuing a warrant to a drawee, the auditor may issue a warrant payment order to the county treasurer. Upon receipt of the warrant payment order, the treasurer may submit payment to the drawee through an electronic funds transfer system.

Sec. 2. Section 331.552, Code 1999, is amended by adding the following new subsection:

NEW SUBSECTION. 33. Carry out duties relating to warrant lists provided by the county auditor pursuant to section 331.506, subsection 1.

Sec. 3. Section 331.554, subsection 4, Code 1999, is amended to read as follows:

4. The treasurer shall return the paid warrants to the auditor. The original warrant shall be preserved for at least two years. The requirement that the original warrant be preserved is satisfied by preservation of the warrant in electronic form if the requirements of section 554C.205[2] are met. The treasurer shall make monthly reports to show for each warrant the number, date, drawee's name, when paid, to whom paid, original amount, and interest.

Sec. 4. Section 331.554, subsection 6, Code 1999, is amended to read as follows:

6. The amount of a check, other than a warrant, outstanding for more than two years shall be paid to the treasurer and credited as unclaimed fees and trusts. The treasurer shall provide a list of the checks to the auditor who shall maintain a record of the unclaimed fees and trusts. A person may claim an unclaimed fee or trust within five years after the money is credited upon proper proof of ownership.

Approved April 13, 2000

CHAPTER 1085

MATTERS RELATED TO COUNTY OFFICERS' DUTIES — INSTRUMENTS AFFECTING PROPERTY — FEES

S.F. 2253

AN ACT relating to certain county officers' duties relating to property transfer instruments, records of fees paid to a county, notice of certification of utility liens, and notice of mobile homes departing and entering mobile home parks.

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

Section 1. Section 321.45, subsection 4, Code Supplement 1999, is amended to read as follows:

4. ~~A~~ After acquiring a used mobile home or manufactured housing to be titled in Iowa, a mobile home dealer, as defined in section 322B.2, shall within thirty days ~~of acquiring a used mobile home or manufactured housing, titled in Iowa,~~ apply for and obtain from the county treasurer of the dealer's county of residence a new certificate of title for the mobile home or manufactured housing. In the event that there is a prior lien or encumbrance to be released, as required by section 321.50, subsection 4, the thirty-day time period in this subsection does not begin to run until the lien or encumbrance is released.

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[1] See chapter 1189 and chapter 1232, §67 herein

[2] See chapter 1189 and chapter 1232, §68 herein

Sec. 2. Section 331.602, subsection 1, paragraph d, Code Supplement 1999, is amended to read as follows:

d. An instrument conveying an interest in real property other than a mortgage, a mortgage release, or an assignment, shall contain the statement "Address tax statement:" which shall be filled out with a name and complete mailing address. Each instrument conveying an interest in real property shall contain this statement unless otherwise authorized by the county recorder.

Sec. 3. Section 331.902, subsection 2, Code 1999, is amended to read as follows:

2. Each elective officer specified in subsection 1 shall maintain a ~~permanent~~ record in the county system of each fee and charge collected. The record shall show the date, amount, payor, and type of service, and, when the fee is for recording an instrument, the names of the parties to the instrument. The record of the fees collected shall be retained for three years after audit of the county pursuant to section 11.6.

Sec. 4. Section 384.84, subsection 3, paragraph c, Code Supplement 1999, is amended to read as follows:

c. A lien for a city utility or enterprise service under paragraph "a" shall not be certified to the county treasurer for collection unless prior written notice of intent to certify a lien is given to the account holder of the delinquent account at least thirty days prior to certification. If the account holder is a tenant, and if the owner or landlord of the property has made a written request for notice, the notice shall also be given to the owner or landlord. The notice shall be sent to the appropriate persons by ordinary mail not less than ~~ten~~ thirty days prior to certification of the lien to the county treasurer.

Sec. 5. Section 435.24, subsection 3, Code Supplement 1999, is amended to read as follows:

3. Each mobile home park owner shall notify monthly the county treasurer concerning any home arriving in or departing from the park without a tax clearance statement. The records of the owner shall be open to inspection by a duly authorized representative of any law enforcement agency. ~~Any property owner, manager or tenant shall report to the county treasurer homes parked upon any property owned, managed, or rented by that person.~~ The mobile home park owner or manager shall make an annual report to the county treasurer due June 1 of the homes sited in the mobile home park, listing the owner and mailing address of each home located in the mobile home park. The report is delinquent if not filed with the county treasurer by June 30. In addition to the annual report, the owner or manager shall also report any changes of homes or owners in a report due December 1, which is delinquent if not filed by December 31. However, if no changes have occurred since the June annual report, the December report is not required to be filed.

Sec. 6. Section 448.1, Code 1999, is amended to read as follows:

448.1 RETURN OF CERTIFICATE OF PURCHASE — EXECUTION OF DEED.

Immediately after the expiration of ninety days from the date of completed service of the notice provided in section 447.12 the county treasurer shall make out a deed for each parcel sold and unredeemed~~, and deliver it to the purchaser~~ upon the return of the certificate of purchase and payment of the appropriate deed and recording fees by the purchaser. The treasurer shall record the deed with the county recorder prior to delivering the deed to the purchaser. The treasurer shall receive twenty-five dollars for each deed made by the treasurer, and the treasurer may include any number of parcels purchased by one person in one deed, if authorized by the treasurer.

The tax sale certificate holder shall return the certificate of purchase and remit the appropriate deed issuance fee and recording fee to the county treasurer within ninety calendar days after the redemption period expires. The treasurer shall cancel the certificate for any tax sale certificate holder who fails to comply with this paragraph. This paragraph does not apply to certificates held by a county. This paragraph is applicable to all certificates of purchase issued before, on, or after July 1, 1997. Holders of certificates of purchase that are

outstanding on July 1, 1997, shall return the certificate of purchase and remit the appropriate deed issuance fee to the county treasurer within ninety calendar days from that date.

Approved April 13, 2000

CHAPTER 1086

HOUSEHOLD HAZARDOUS MATERIAL COLLECTION

S.F. 2326

AN ACT relating to funding of certain household hazardous material collection efforts and events.

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

Section 1. Section 455E.11, subsection 2, paragraph a, subparagraph (2), subparagraph subdivision (f), Code 1999, is amended to read as follows:

(f) Eight and one-half percent to the department to provide additional toxic cleanup days or other efforts of the department to support permanent household hazardous material collection systems and special events for household hazardous material collection, and for the natural resource geographic information system required under section 455E.8, subsection 6. Departmental rules adopted for implementation of toxic cleanup days shall provide sufficient flexibility to respond to the household hazardous material collection needs of both small and large communities. Repayment of moneys[1] from the Iowa business loan program for waste reduction and recycling pursuant to section 455B.310, subsection 2, paragraph "b", Code 1993, and discontinued pursuant to 1993 Iowa Acts, chapter 176, section 45, shall be placed into this account to support household hazardous materials programs of the department.

Approved April 13, 2000

CHAPTER 1087

CREATION OF REAL ESTATE IMPROVEMENT DISTRICTS

S.F. 2342

AN ACT relating to the creation of a real estate improvement district.

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

Section 1. Section 358C.1, subsection 2, paragraph d, Code 1999, is amended to read as follows:

d. "District" means a real estate improvement district as created in this chapter. ~~A real estate improvement district shall not be created after June 30, 2000.~~

Approved April 13, 2000

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[1] The phrase "Repayment moneys" probably intended

CHAPTER 1088

FAMILY INVESTMENT PROGRAM — MISCELLANEOUS PROVISIONS

S.F. 2368

AN ACT relating to the family investment program and associated provisions.

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

Section 1. Section 217.30, subsection 4, paragraph c, Code 1999, is amended by striking the paragraph.

Sec. 2. Section 239B.2, subsection 3, Code Supplement 1999, is amended to read as follows:

3. UNEMPLOYMENT. A determination of eligibility for a family with an unemployed parent shall not include consideration of either parent's number of hours of employment ~~except to establish the date assistance would begin in accordance with rules. However, both~~ Both parents must enter into and participate in a family investment agreement and participate in JOBS program activities unless good cause not to participate is established in accordance with rules. ~~For the purposes of this chapter, an applicant family with a parent who is partially or totally unemployed under any of the following circumstances shall not be considered to be unemployed:~~

~~a. The period of unemployment is less than thirty days prior to commencing participation under this chapter.~~

~~b. The parent is partially or totally unemployed due to a work stoppage which exists because of a labor dispute at the factory, establishment, or other premises at which the parent is or was last employed.~~

~~c. At any time during the thirty-day period prior to commencing participation under this chapter, the parent has not been available for employment, has not actively sought employment, or has without good cause refused any bona fide offer of employment or training for employment.~~ Any of the following reasons for refusing employment or training are not good cause:

~~(1)~~ a. Unsuitable or unpleasant work or training, if the parent is able to perform the work or training without unusual danger to the parent's health.

~~(2)~~ b. The amount of wages or compensation, unless the wages for employment are below the amount customary for the same work in the community.

~~d. The parent has not registered for work with the state employment service established pursuant to section 96.12, or after registration has failed to report at an employment office in accordance with regulations prescribed pursuant to section 96.4, subsection 1.~~

~~e. The parent is eligible but refuses to apply for or to draw upon unemployment benefits.~~

~~f. The parent or family fails to meet other requirements adopted by the department applicable to the applicant parent or family. The other requirements shall be limited to those necessary to meet federal requirements and may be in addition to or in lieu of the requirements of this subsection, for eligibility under this chapter to children whose parents are partially or totally unemployed.~~

Sec. 3. Section 239B.8, subsection 1, Code Supplement 1999, is amended by adding the following new paragraph:

NEW PARAGRAPH. d. The individual is not a United States citizen and is not a qualified alien as defined in 8 U.S.C. § 1641.

Sec. 4. Section 239B.9, subsection 1, paragraph b, subparagraph (3), Code Supplement 1999, is amended to read as follows:

(3) For a two-parent family in which both parents are responsible for a family investment agreement, a first or subsequent limited benefit plan shall remain applicable until both parents complete significant contact with or action in regard to the JOBS program. A limited benefit plan applied more than once to the same two-parent family shall be treated as a subsequent limited benefit plan.

Sec. 5. Section 239B.11, subsection 2, Code Supplement 1999, is amended to read as follows:

2. A diversion program subaccount is created within the family investment program account. The subaccount may be used to provide incentives to divert applicants' participation in the family investment program if the applicants meet income eligibility requirements for assistance. Incentives may be provided in the form of payment or services with a focus on helping applicants to obtain or retain employment. The diversion program subaccount may also be used for payments to participants as necessary to cover the expenses of removing barriers to employment. In addition, the diversion program subaccount may be used for funding of services and payments for persons whose family investment program eligibility has ended, in order to help the persons to stabilize or improve their employment status.

Sec. 6. Section 239B.14, Code 1999, is amended to read as follows:

239B.14 FRAUDULENT PRACTICES — RECOVERY OF OVERPAYMENTS.

1. An individual who obtains, or attempts to obtain, or aids or abets an individual to obtain, by means of a willfully false statement or representation, by knowingly failing to disclose a material fact, or by impersonation, or any fraudulent device, any assistance or other benefits under this chapter to which the individual is not entitled, commits a fraudulent practice.

2. An individual who commits a fraudulent practice under this section is personally liable for the amount of assistance or other benefits fraudulently obtained. The amount of the assistance or other benefits may be recovered from the offender or the offender's estate in an action brought or by claim filed in the name of the state and the recovered funds shall be deposited in the family investment program account. The action or claim filed in the name of the state shall not be considered an election of remedies to the exclusion of other remedies.

3. The department shall adopt rules pursuant to chapter 17A as necessary to recover overpayments of assistance and benefits provided under this chapter. The recovery methods shall include but are not limited to reducing the amount of assistance or benefits provided.

Sec. 7. Section 239B.17, subsection 2, Code 1999, is amended by adding the following new paragraph:

NEW PARAGRAPH. e. Providing services and payments for persons whose family investment program eligibility has ended, in order to help the persons to stabilize or improve their employment status.

Sec. 8. Section 239B.18, Code 1999, is amended to read as follows:

239B.18 JOBS PROGRAM PARTICIPATION.

Except for participants who are exempt from the requirement to enter into a family investment agreement under section 239B.8, a participant in the family investment program shall participate in JOBS program activities as provided in the participant's family investment agreement. ~~A~~ Except for an individual who is not a United States citizen and is not a qualified alien and exempt from the requirement to enter into a family investment agreement under section 239B.8, subsection 1, paragraph "d", a participant who is exempt may voluntarily participate in the JOBS program.

Approved April 13, 2000

CHAPTER 1089

HEALTH AND MEDICAL INSURANCE FOR RETIREES — CITY EMPLOYEES

H.F. 2315

AN ACT concerning the payment of health and medical insurance coverage costs by cities to retired employees.

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

Section 1. NEW SECTION. 364.25 RETIREE HEALTH CARE.

A city may provide health or medical insurance coverage or supplemental health or medical insurance coverage to retired employees of the city. A city providing health or medical insurance coverage pursuant to this section may establish such requirements or restrictions concerning the coverage provided as the city may adopt. If coverage is provided, the cost of the health or medical insurance coverage may be paid from moneys held in a trust and agency fund established pursuant to section 384.6, or out of an appropriation from the city general fund for this purpose.

Approved April 13, 2000

CHAPTER 1090

COUNTY MENTAL HEALTH, MENTAL RETARDATION, AND DEVELOPMENTAL DISABILITIES SERVICES FUNDING

H.F. 2327

AN ACT relating to county levy and expenditure authority involving the risk pool and county mental health, mental retardation, and developmental disabilities services fund by authorizing appropriations from the fund for capital assets used exclusively for purposes of the services fund, authorizing associated county general fund levies and expenditures, and including transition, effective, and applicability dates, and other related provisions.

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

Section 1. Section 331.424A, Code 1999, is amended by adding the following new subsection:

NEW SUBSECTION. 6. a. For the purposes of this subsection and section 331.438, "capital asset" means any real or tangible personal property with a value of more than ten thousand dollars and an estimated usable life of more than three years. Capital asset does not include any modification made to the home or vehicle of a consumer of services paid from the services fund.

b. If a capital asset is to be used exclusively for the provision of services payable from the services fund or for the administration of the services fund, an appropriation may be made from the services fund for the purchase, lease-purchase, installment acquisition arrangement, or other arrangement for acquisition or improvement of the capital asset.

c. If a capital asset is owned by the county or the acquisition cost is charged to the county's general fund and the capital asset is used in part for a purpose payable from the county's services fund, the county's services fund shall annually reimburse the county's general fund for the use of the capital asset. For capital assets acquired on or after July 1, 2000, and for subsequent improvements of those capital assets, the reimbursement amount shall be in accordance with comparable federally approved depreciation schedules. For capital assets

for which appropriations were included in the county budget prior to July 1, 2000, and for subsequent improvements of those capital assets, the reimbursement amount shall be the current fair market rate for use of the capital asset, as determined by an independent real estate appraiser.[1]

Sec. 2. Section 331.427, subsection 2, Code 1999, is amended by adding the following new paragraph:

NEW PARAGRAPH. n. Capital assets, as defined in section 331.424A, acquired to be used for purposes which are reimbursable in part from the county's services fund.

Sec. 3. Section 331.438, subsection 1, paragraph a, Code Supplement 1999, is amended to read as follows:

a. "Base year expenditures" means the amount selected by a county and reported to the county finance committee pursuant to this paragraph. The amount selected shall be equal to the amount of net expenditures made by the county for qualified mental health, mental retardation, and developmental disabilities services provided in ~~either~~ one of the following ~~fiscal years~~:

(1) The actual amount reported to the state on October 15, 1994, for the fiscal year beginning July 1, 1993.

(2) The net expenditure amount contained in the county's final budget certified in accordance with chapter 24 for the fiscal year beginning July 1, 1995, and reported to the county finance committee.

If the county finance committee approved the county's petition, filed in accordance with this Act for an adjustment in base year expenditures, to transfer accrual of appropriations and revenues attributable to acquisition of capital assets from the county's services fund to the county's general fund, the amount in subparagraph (1) or (2) that was selected by the county shall be adjusted accordingly.

Sec. 4. Section 426B.5, subsection 3, paragraph c, subparagraph (6), Code 1999, is amended to read as follows:

(6) The total amount of risk pool assistance shall be limited to the amount available in the risk pool for a fiscal year. If the total amount of eligible assistance exceeds the amount available in the risk pool the amount of assistance paid shall be prorated among the counties eligible for assistance. Moneys remaining unexpended or unobligated in the risk pool at the close of a fiscal year shall remain available for distribution in the succeeding fiscal year.

Sec. 5. TRANSITION — TRANSFER OF CAPITAL ASSETS.

1. For the purposes of this section, "base year expenditures" means the same as provided in section 331.438, "county finance committee" means the committee created in section 333A.2, and "capital asset" and "services fund" mean the same as provided in section 331.424A, as amended by this Act.

2. If, as of the effective date of this Act, a county's base year expenditures includes expenditures for acquisition of a capital asset that are to be charged to the county's general fund in accordance with section 331.424A, subsection 6, as enacted by this Act, the county shall petition the county finance committee by April 30, 2000, to approve an adjustment in the county's base year expenditures in an amount equal to those capital asset expenditures.[2] The amount of the county's base year expenditures shall be adjusted in accordance with the county finance committee's action.

3. If a county's certified budget for the fiscal year beginning July 1, 2000, includes expenditures from the services fund for a capital asset that are to be charged to the county's general fund in accordance with section 331.424A, subsection 6, as enacted by this Act, the county shall recertify the budget to adjust the levy for the services fund and make a corresponding adjustment in the levy for the general fund in an equal amount. The county shall complete the recertification with the department of management on or before May 15, 2000.[3]

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[1] See chapter 1232, §5, 10 herein
[2] See chapter 1232, §6, 10 herein
[3] See chapter 1232, §7, 10 herein

4. If before the effective date of this section the ownership or acquisition costs of a county's capital asset used in part for a purpose payable from the county's services fund were accrued to the county's services fund, beginning with the effective date of this Act, any appropriations or revenues attributable to that capital asset shall instead be accrued to the county's general fund.[4] Except as expressly authorized by this Act, the county shall not make any adjustment to the county's services fund or general fund to remunerate the services fund for such appropriations or revenues that were accrued to the services fund before the transfer of accrual to the general fund.

Sec. 6. EFFECTIVE AND APPLICABILITY DATES. This Act, being deemed of immediate importance, takes effect upon enactment. The amendments to section 331.424A, 331.427, and 331.438, and the transition section in this Act are first applicable to county budgets and levies in effect for the fiscal year beginning July 1, 2000, and ending June 30, 2001.[5]

Approved April 13, 2000

CHAPTER 1091

DAIRY TRADE PRACTICES REGULATION

H.F. 2328

AN ACT eliminating the regulation of certain dairy trade practices.

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

Section 1. Chapter 192A, Code 1999, is repealed.

Approved April 13, 2000

CHAPTER 1092

MODIFICATION OF CHILD CUSTODY OR SUPPORT ORDERS — PILOT PROJECT

H.F. 2388

AN ACT relating to the implementation of a pilot project pertaining to the concurrent jurisdiction of the juvenile court and the district court relating to modification of child custody and support orders.

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

Section 1. CONCURRENT JURISDICTION — CUSTODY OR SUPPORT — PILOT PROJECT.

1. The judicial branch shall implement a pilot project in at least one judicial district to provide for concurrent jurisdiction between the juvenile court and the district court for the purpose of the district court modifying an existing custody or support order when the juvenile court issues an order removing a child from the custody of a parent previously granted custody or support pursuant to chapter 598.

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[4] See chapter 1232, §8, 10 herein

[5] See chapter 1232, §9, 10 herein

2. The judicial branch shall submit a report to the general assembly on or before December 1, 2000, regarding the progress of the pilot project and recommendations regarding the continuation or expansion of the project.

Approved April 13, 2000

CHAPTER 1093

FRANCHISE AGREEMENTS

S.F. 324

AN ACT relating to certain franchise agreements and the rights and responsibilities of the parties under such agreements.

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

Section 1. NEW SECTION. 537A.10 FRANCHISE AGREEMENTS.

1. DEFINITIONS.

When used in this section, unless the context otherwise requires:

a. "Affiliate" means a person controlling, controlled by, or under common control with another person, every officer or director of such a person, and every person occupying a similar status or performing similar functions.

b. "Business day" means a day other than a Saturday, Sunday, or federal holiday.

c. (1) "Franchise" means either of the following:

(a) An oral or written agreement, either express or implied, which provides all of the following:

(i) Grants the right to distribute goods or provide services under a marketing plan prescribed or suggested in substantial part by the franchisor.

(ii) Requires payment of a franchise fee to a franchisor or its affiliate.

(iii) Allows the franchise business to be substantially associated with a trademark, service mark, trade name, logotype, advertisement, or other commercial symbol of or designating the franchisor or its affiliate.

(b) A master franchise.

(2) "Franchise" does not include any business that is operated under a lease or license on the premises of the lessor or licensor as long as such business is incidental to the business conducted by the lessor or licensor on such premises, including, without limitation, leased departments, licensed departments, and concessions and the leased or licensed department operates only under the trademark, trade name, service mark, or other commercial symbol designating the lessor or licensor.

(3) "Franchise" also does not include any contract under which a petroleum retailer or petroleum distributor is authorized or permitted to occupy leased marketing premises, which premises are to be employed in connection with the sale, consignment, or distribution of motor fuel under a trademark which is owned or controlled by a refiner which is regulated by the federal Petroleum Marketing Practices Act, 15 U.S.C. § 2801 et seq. The term "refiner" means any person engaged in the refining of crude oil to produce motor fuel, and includes any affiliate of such person. "Franchise" also does not include a contract entered into by any person regulated under chapter 123, 322, 322A, 322B, 322C, 322D, 322F, 522, or 543B, or a contract establishing a franchise relationship with respect to the sale of construction equipment, lawn or garden equipment, or real estate.

d. "Franchise fee" means a direct or indirect payment to purchase or operate a franchise. Franchise fee does not include any of the following:

(1) Payment of a reasonable service charge to the issuer of a credit card by an establishment accepting the credit card.

(2) Payment to a trading stamp company by a person issuing trading stamps in connection with a retail sale.

(3) An agreement to purchase at a bona fide wholesale price a reasonable quantity of tangible goods for resale.

(4) The purchase or agreement to purchase, at a fair market value, any fixtures, equipment, leasehold improvements, real property, supplies, or other materials reasonably necessary to enter into or continue a business.

(5) Payments by a purchaser pursuant to a bona fide loan from a seller to the purchaser.

(6) Payment of rent which reflects payment for the economic value of leased real or personal property.

(7) The purchase or agreement to purchase promotional or demonstration supplies, materials, or equipment furnished at fair market value and not intended for resale.

e. "Franchisee" means a person to whom a franchise is granted. Franchisee includes the following:

(1) A subfranchisor with regard to its relationship with a franchisor.

(2) A subfranchisee with regard to its relationship with a subfranchisor.

f. "Franchisor" means a person who grants a franchise or master franchise, or an affiliate of such a person. Franchisor includes a subfranchisor with regard to its relationship with a franchisee, unless stated otherwise in this section.

g. "Marketing plan" means a plan or system concerning a material aspect of conducting business. Indicia of a marketing plan include any of the following:

(1) Price specification, special pricing systems, or discount plans.

(2) Sales or display equipment or merchandising devices.

(3) Sales techniques.

(4) Promotional or advertising materials or cooperative advertising.

(5) Training regarding the promotion, operation, or management of the business.

(6) Operational, managerial, technical, or financial guidelines or assistance.

h. "Master franchise" means an agreement by which a person pays a franchisor for the right to sell or negotiate the sale of franchises.

i. "Offer" or "offer to sell" means every attempt to offer or to dispose of, or solicitation of an offer to buy, a franchise or interest in a franchise for value.

j. "Person" means a person as defined in section 4.1, subsection 20.

k. "Sale" or "sell" means every contract or agreement of sale of, contract to sell or disposition of, a franchise or interest in a franchise for value.

l. "Subfranchise" means an agreement by which a person pays a franchisor for the right to sell or negotiate the sale of franchises.

m. "Subfranchisee" means a person who is granted a franchise from a subfranchisor.

n. "Subfranchisor" means a person who is granted a master franchise.

2. APPLICABILITY. Notwithstanding section 523H.2, this section applies to a new or existing franchise that is operated in this state and that is subject to an agreement entered into on or after the effective date of this Act. For purposes of this section, the franchise is operated in this state only if the premises from which the franchise is operated is physically located in this state. For purposes of this section, a franchise including marketing rights in or to this state, is deemed to be operated in this state only if the franchisee's principal business office is physically located in this state. This section does not apply to a franchise solely because an agreement relating to the franchise provides that the agreement is subject to or governed by the laws of this state. The provisions of this section do not apply to any existing or future contracts between Iowa franchisors and franchisees who operate franchises located out of state.

3. JURISDICTION AND VENUE OF DISPUTES.

a. A provision in a franchise agreement restricting jurisdiction to a forum outside this state is void with respect to a claim otherwise enforceable under this section.

b. A civil action or proceeding arising out of a franchise may be commenced wherever jurisdiction over the parties or subject matter exists, even if the agreement limits actions or proceedings to a designated jurisdiction.

c. Venue for a civil action commenced under this chapter shall be determined in accordance with chapter 616.

4. WAIVERS VOID. A condition, stipulation, or provision requiring a franchisee to waive compliance with or relieving a person of a duty or liability imposed by or a right provided by this section or a rule or order under this section is void. This subsection shall not affect the settlement of disputes, claims, or civil lawsuits arising or brought pursuant to this section.

5. TRANSFER OF FRANCHISE.

a. A franchisee may transfer the franchised business and franchise to a transferee, provided that the transferee satisfies the reasonable current qualifications of the franchisor for new franchisees. For the purposes of this subsection, a reasonable current qualification for a new franchisee is a qualification based upon a legitimate business reason. If the proposed transferee does not meet the reasonable current qualifications of the franchisor, the franchisor may refuse to permit the transfer, provided that the refusal of the franchisor to consent to the transfer is not arbitrary or capricious.

b. (1) A franchisee may transfer less than a controlling interest in the franchise to an employee stock ownership plan, or employee incentive plan provided that more than fifty percent of the entire franchise is held by those who meet the franchisor's reasonable current qualifications for franchisees, and such transfer is approved by the franchisor. Approval of such transfer shall not be unreasonably withheld.

(2) If pursuant to such a transfer less than fifty percent of the entire franchise would be owned by persons who meet the franchisor's reasonable current qualifications, the franchisor may refuse to authorize the transfer, provided that enforcement of the reasonable current qualifications is not arbitrary or capricious.

(3) Participation by an employee in an employee stock ownership plan or employee incentive plan established pursuant to this subsection does not confer upon such employee any right to access trade secrets protected under the franchise agreement which access the employee would not otherwise have if the employee did not participate in such plan.

c. A franchisor may require as a condition of a transfer any of the following:

(1) That the transferee successfully complete a training program.

(2) That a transfer fee be paid to reimburse the franchisor for the franchisor's actual expenses directly attributable to the transfer.

(3) That the franchisee pay or make provision acceptable to the franchisor to pay any amount due the franchisor or the franchisor's affiliate.

(4) That the financial terms of the transfer comply at the time of the transfer with the franchisor's current financial requirements for franchisees.

d. A franchisee shall give the franchisor no less than sixty days' written notice of a transfer which is subject to this subsection, and on request from the franchisor shall provide in writing the ownership interests of all persons holding or claiming an equitable or beneficial interest in the franchise subsequent to the transfer or the franchisee, as appropriate. A franchisee shall not circumvent the intended effect of a contractual provision governing the transfer of the franchise or an interest in the franchise by means of a management agreement, lease, profit-sharing agreement, conditional assignment, or other similar device.

e. A transfer by a franchisee is deemed to be approved sixty days after the franchisee submits the request for consent to the transfer unless the franchisor withholds consent to the transfer as evidenced in writing, specifying the reason or reasons for withholding the consent. The written notice must be delivered to the franchisee prior to the expiration of the sixty-day period. Any such notice is privileged and is not actionable based upon a claim of defamation.

f. A franchisor shall not discriminate against a proposed transferee of a franchise on the basis of race, color, national origin, religion, sex, or disability.

g. A transfer of less than a controlling interest in the franchise to the franchisee's spouse or child or children shall be permitted if following the transfer more than fifty percent of the interest in the entire franchise is held by those who meet the franchisor's reasonable current qualifications. If following such a transfer fifty percent or less of the interest in the franchise would be owned by persons who meet the franchisor's reasonable current qualifications, the franchisor may refuse to authorize the transfer, provided that enforcement of the reasonable current qualifications is not arbitrary or capricious.

h. A franchisor shall not deny the surviving spouse or a child or children of a deceased or permanently disabled franchisee the opportunity to participate in the ownership of a franchise under a valid franchise agreement for a reasonable period, which need not exceed one year, after the death or disability of the franchisee. During such reasonable period, the surviving spouse or the child or children of the franchisee shall either meet all of the qualifications which the franchisee was subject to at the time of the death or disability of the franchisee, or sell, transfer, or assign the franchise to a person who meets the franchisor's current qualifications for a new franchisee. The rights granted pursuant to this subsection are subject to the surviving spouse or the child or children of the franchisee maintaining all standards and obligations of the franchise.

i. Incorporation of a proprietorship franchise shall be permitted upon sixty days' prior written notice to the franchisor. Such incorporation does not prohibit a franchisor from requiring a personal guaranty by the franchisee of obligations related to the franchise, and the owners of the corporation must meet the franchisor's reasonable current qualifications for franchisees.

j. A transfer within an existing ownership group of a franchise shall be permitted provided that the transferee meets the franchisor's reasonable current qualifications for franchisees, and written notice is submitted to the franchisor sixty days prior to such a transfer. If less than fifty percent of the franchise would be owned by persons who meet the franchisor's reasonable current qualifications, the franchisor may refuse to authorize the transfer, provided that enforcement of the reasonable current qualifications is not arbitrary or capricious.

6. ENCROACHMENT.

a. If a franchisor develops, or grants to a franchisee the right to develop, a new outlet or location which sells essentially the same goods or services under the same trademark, service mark, trade name, logotype, or other commercial symbol as an existing franchisee and the new outlet or location is in unreasonable proximity to the existing franchisee's outlet or location and has an adverse effect on the gross sales of the existing franchisee's outlet or location, the existing adversely affected franchisee has a cause of action for monetary damages in an amount calculated pursuant to paragraph "d", unless any of the following apply:

(1) The franchisor has first offered the new outlet or location to the existing franchisee on the same basic terms and conditions available to the other potential franchisee and such existing franchisee meets the reasonable current qualifications of the franchisor including any financial requirements, or, if the new outlet or location is to be owned by the franchisor, on the terms and conditions that would ordinarily be offered to a franchisee for a similarly situated outlet or location.

(2) The adverse impact on the existing franchisee's annual gross sales, based on a comparison to the annual gross sales from the existing outlet or location during the twelve-month period immediately preceding the opening of the new outlet or location, is determined to have been less than six percent during the first twelve months of operation of the new outlet or location.

(3) The existing franchisee, at the time the franchisor develops, or grants to a franchisee the right to develop, a new outlet or location, is not in compliance with the franchisor's then current reasonable criteria for eligibility for a new franchise, not including any financial requirements.

(4) The existing franchisee has been granted reasonable territorial rights and the new outlet or location does not violate those territorial rights.

b. (1) The franchisor, with respect to claims made under paragraph "a", shall establish both of the following:

(a) A formal procedure for hearing and acting upon claims by an existing franchisee with regard to a decision by the franchisor to develop, or grant to a franchisee the right to develop, a new outlet or location, prior to the opening of the new outlet or location.

(b) A reasonable formal procedure for mediating a dispute resulting in an award of compensation or other form of consideration to a franchisee to offset all or a portion of the franchisee's lost profits caused by the establishment of the new outlet or location. The procedure shall involve a neutral third-party mediator. The procedure shall be deemed reasonable if approved by a majority of the franchisor's franchisees in the United States.

(2) A dispute submitted to a formal procedure under subparagraph (1) does not diminish the rights of a franchisor or franchisee to bring a cause of action for a violation of this subsection if no settlement results from such procedure.

c. A franchisor shall establish and make available to its franchisees a written policy setting forth its reasonable criteria to be used by the franchisor to determine whether an existing franchisee is eligible for a franchise for an additional outlet or location.

d. (1) In establishing damages under a cause of action brought pursuant to this subsection, the franchisee has the burden of proving the amount of lost profits attributable to the compensable sales. In any action brought under this subsection, the damages payable shall be limited to no more than three years of the proven lost profits. For purposes of this paragraph, "compensable sales" means the annual gross sales from the existing outlet or location during the twelve-month period immediately preceding the opening of the new outlet or location less both of the following:

(a) Six percent of the annual gross sales for that twelve-month period immediately preceding the opening of the new outlet or location.

(b) The actual gross sales from the operation of the existing outlet or location for the twelve-month period immediately following the opening of the new outlet or location.

(2) Compensable sales shall exclude any amount attributable to factors other than the opening and operation of the new outlet or location.

e. Any cause of action brought under this subsection must be filed within eighteen months of the opening of the new outlet or location or within thirty days after the completion of the procedure under paragraph "b", subparagraph (1), whichever is later.

7. TERMINATION.

a. Except as otherwise provided by this section, a franchisor shall not terminate a franchise prior to the expiration of its term except for good cause. For purposes of this subsection, "good cause" is cause based upon a legitimate business reason. "Good cause" includes the failure of the franchisee to comply with any material lawful requirement of the franchise agreement, provided that the termination by the franchisor is not arbitrary or capricious. The burden of proof of showing that the action of the franchisor is arbitrary or capricious shall rest with the franchisee.

b. Prior to termination of a franchise for good cause, a franchisor shall provide a franchisee with written notice stating the basis for the proposed termination. After service of written notice, the franchisee shall have a reasonable period of time to cure the default, which in no event shall be less than thirty days or more than ninety days. In the event of nonpayment of moneys due under the franchise agreement, the period to cure need not exceed thirty days.

c. Notwithstanding paragraph "b", a franchisor may terminate a franchise upon written notice and without an opportunity to cure if any of the following apply:

(1) The franchisee or the business to which the franchise relates is declared bankrupt or judicially determined to be insolvent.

(2) All or a substantial part of the assets of the franchise or the business to which the franchisee relates are assigned to or for the benefit of any creditor which is subject to chapter 681. An assignment for the benefit of any creditor pursuant to this subparagraph does not include the granting of a security interest in the normal course of business.

(3) The franchisee voluntarily abandons the franchise by failing to operate the business for five consecutive business days during which the franchisee is required to operate the business under the terms of the franchise, or any shorter period after which it is not unreasonable under the facts and circumstances for the franchisor to conclude that the franchisee does not intend to continue to operate the franchise, unless the failure to operate is due to circumstances beyond the control of the franchisee.

(4) The franchisor and franchisee agree in writing to terminate the franchise.

(5) The franchisee knowingly makes any material misrepresentations or knowingly omits to state any material facts relating to the acquisition or ownership or operation of the franchise business.

(6) The franchisee repeatedly fails to comply with one or more material provisions of the franchise agreement, when the enforcement of such material provisions is not arbitrary or capricious, whether or not the franchisee complies after receiving notice of the failure to comply.

(7) The franchised business or business premises of the franchisee are lawfully seized, taken over, or foreclosed by a government authority or official.

(8) The franchisee is convicted of a felony or any other criminal misconduct which materially and adversely affects the operation, maintenance, or goodwill of the franchise in the relevant market.

(9) The franchisee operates the franchised business in a manner that imminently endangers the public health and safety.

8. NONRENEWAL OF A FRANCHISE.

a. A franchisor shall not refuse to renew a franchise unless both of the following apply:

(1) The franchisee has been notified of the franchisor's intent not to renew at least six months prior to the expiration date or any extension of the franchise agreement.

(2) Any of the following circumstances exist:

(a) Good cause exists, provided that the refusal of the franchisor to renew is not arbitrary or capricious. For purposes of this subsection, "good cause" means cause based on a legitimate business reason.

(b) The franchisor and franchisee agree not to renew the franchise.

(c) The franchisor completely withdraws from directly or indirectly distributing its products or services in the geographic market served by the franchisee, provided that upon expiration of the franchise, the franchisor agrees not to seek to enforce any covenant of the nonrenewed franchisee not to compete with the franchisor or franchisees of the franchisor.

b. As a condition of renewal of the franchise, a franchise agreement may require that the franchisee meet the then current requirements for franchises and that the franchisee execute a new agreement incorporating the then current terms and fees for new franchises.

9. SOURCES OF GOODS OR SERVICES. A franchisor shall not require that a franchisee purchase goods, supplies, inventories, or services exclusively from the franchisor or from a source or sources of supply specifically designated by the franchisor where such goods, supplies, inventories, or services of comparable quality are available from sources other than those designated by the franchisor.

However, the publication by the franchisor of a list of approved suppliers of goods, supplies, inventories, or services, or the requirement that such goods, supplies, inventories, or services comply with specifications and standards prescribed by the franchisor, does not constitute designation of a source. Additionally, the reasonable right of a franchisor to disapprove a supplier does not constitute a designation of source. This subsection does not apply to the principal goods, supplies, inventories, or services manufactured by the franchisor, or such goods, supplies, inventories, or services entitled to protection as a trade secret.

10. FRANCHISEE'S RIGHT TO ASSOCIATE. A franchisor shall not restrict a franchisee from associating with other franchisees or from participating in a trade association, and shall not retaliate against a franchisee for engaging in these activities.

11. DUTY OF GOOD FAITH. A franchise imposes on the parties a duty of good faith in performance and enforcement of the franchise agreement. "Good faith" means honesty in fact and the observance of reasonable commercial standards of fair dealing in the trade.

The duty of good faith is imposed in situations including, but not limited to, where the franchisor opens a new outlet or location that has an adverse impact on an existing franchisee. A determination of whether the duty of good faith with respect to a new outlet or location has been met shall be made pursuant to the provisions, standards, and procedures in subsection 6.

12. EXCLUSION. For purposes of this section, "franchise" does not include a contract under which a franchise relationship is established with respect to retreaded tires and related equipment used for commercial vehicles.

13. PRIVATE CIVIL ACTION. A person who violates a provision of this section or order issued under this section is liable for damages caused by the violation, including, but not limited to, costs and reasonable attorneys' and experts' fees, and subject to other appropriate relief including injunctive and other equitable relief.

14. CHOICE OF LAW. A condition, stipulation, or provision requiring the application of the law of another state in lieu of this section is void.

15. CONSTRUCTION WITH OTHER LAW. This section does not limit any liability that may exist under another statute or at common law.

16. CONSTRUCTION. This section shall be liberally construed to effectuate its purposes.

17. SEVERABILITY. If any provision or clause of this section or any application of this section to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the section which can be given effect without the invalid provision or application, and to this end the provisions of this section are declared to be severable.

Sec. 2. NEW SECTION. 523H.2A APPLICABILITY — LIMITATION.

1. Notwithstanding section 523H.2, this chapter does not apply to a franchise agreement which is entered into on or after July 1, 2000. A franchise agreement which is entered into on or after July 1, 2000, shall be subject to section 537A.10.

2. This chapter shall govern all actions with respect to a franchise agreement entered into prior to July 1, 2000, no matter when the occurrence giving rise to such action occurs.

Approved April 14, 2000

CHAPTER 1094

LIMITATION ON DEPOSITS OF DEPOSITORY INSTITUTIONS OR HOLDING COMPANIES

S.F. 2158

AN ACT relating to the limitation on deposits which may be held by a depository institution or holding company and establishment of a procedure for determining compliance with such limitation, providing for the Act's applicability, and providing an effective date.

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

Section 1. Section 524.1802, Code 1999, is amended by striking the section and inserting in lieu thereof the following:

524.1802 LIMITATION.

1. For purposes of this section, unless the context otherwise requires:

a. "Acquisition" means any of the following:

(1) Obtaining direct or indirect ownership or control of more than twenty-five percent of any class of the voting shares of a depository institution.

(2) Obtaining the power to directly or indirectly control in any manner the election of a majority of the directors, trustees, or other persons exercising similar functions of a depository institution.

(3) Obtaining direct or indirect ownership or control of, or acquisition or assumption of, the deposits of a depository institution or the deposits of any branch, office, or other facility of a depository institution.

b. "Affiliate" of a depository institution or holding company includes a corporation, limited liability company, trust, estate, association, or other similar organization which satisfies any of the following:

(1) The depository institution or holding company directly or indirectly owns or controls either twenty-five percent of the voting shares or more than twenty-five percent of the number of shares voted for the election of such entity's directors, trustees, or other individuals exercising similar functions, or controls in any manner the election of a majority of its directors, trustees, or other individuals exercising similar functions.

(2) Control is held directly or indirectly in such entity through share ownership, or in any other manner, by the shareholders of the depository institution or holding company who own or control either twenty-five percent of the shares of such depository institution or holding company or more than twenty-five percent of the number of shares voted for the election of directors, trustees, or other individuals exercising similar functions of such depository institution or holding company, or by trustees for the benefit of the shareholders of any such depository institution or holding company.

(3) A majority of such entity's directors, trustees, or other individuals exercising similar functions are directors of the depository institution or holding company.

(4) Directly or indirectly owns or controls either twenty-five percent of the voting shares of the depository institution or holding company or more than twenty-five percent of the number of shares voted for the election of directors, trustees, or other individuals exercising similar functions of the depository institution or holding company, or controls in any manner the election of a majority of the directors, trustees, or other individuals exercising similar functions of the depository institution or holding company, or for the benefit of whose shareholders or members all or substantially all of the outstanding voting shares of the depository institution or holding company is held by trustees.

c. "Deposit" means deposit as defined in 12 U.S.C. § 1813.

d. "Deposit in this state" means a deposit properly shown in a deposit report or in a statement under subsection 4, paragraph "c", "d", "h", or "i", as a deposit at a depository institution in this state or at a branch, office, or other facility of the depository institution in this state, without regard to the location of the depositor.

e. "Deposit report" means the annual report that identifies deposits by branch, office, or other facility and that is filed by a depository institution with the federal deposit insurance corporation or the office of thrift supervision. For a depository institution not required to file an annual report that identifies deposits by branch, office, or other facility, "deposit report" means the quarterly report of condition filed by the depository institution for the quarter that ends on or nearest to the date as of which deposits are stated in a deposit report that identifies deposits by branch, office, or other facility and that is required to be filed by other depository institutions having the same type of charter. The date of a deposit report means the date as of which deposits are stated in the deposit report.

f. "Depository institution" means a depository institution as defined in 12 U.S.C. § 1813.

g. "Holding company" means a bank holding company as defined in section 524.1801 and a savings and loan holding company as defined in 12 U.S.C. § 1467a.

h. "Series of acquisitions" means both of the following:

(1) All acquisitions made at any time after the date of the most recent available deposit report and prior to the date of a statement under subsection 4, and all acquisitions made during such time by any depository institution or holding company that is acquired by the depository institution or holding company making the statement, and all acquisitions made during such time by any such depository institution or holding company so acquired.

(2) All acquisitions made at any time between the dates of the two most recent available deposit reports, that are not shown on the most recent available deposit report, by a depository institution or holding company making a statement under subsection 4, and all acquisitions made during such time by any depository institution or holding company that is acquired by the depository institution or holding company making the statement, and all acquisitions made during such time by any such depository institution or holding company so acquired.

2. A depository institution or holding company shall not directly or indirectly acquire a depository institution or the deposits of a depository institution if any of the following apply:

a. The acquirer is a depository institution and, upon the acquisition, the total deposits in this state directly or indirectly controlled by the depository institution would exceed fifteen percent of the total deposits in this state, as determined under this section.

b. The acquirer is a holding company and, upon the acquisition, the total deposits in this state directly or indirectly controlled by the holding company would exceed fifteen percent of the total deposits in this state, as determined under this section.

c. The acquirer is a depository institution or a holding company which is directly or indirectly owned or controlled by a holding company and, upon the acquisition, the total deposits in this state directly or indirectly controlled by the holding company which owns or controls the acquiring depository institution or holding company would exceed fifteen percent of the total deposits in this state, as determined under this section.

3. On or after January 1, 2000, a depository institution shall not directly or indirectly cause or permit the transfer, assignment, or other disposition of deposits, or the conversion of deposits to nondeposit investments or other nondeposit products, whether by written agreement or otherwise, for the purpose of achieving compliance with the deposit limitation set forth in subsection 2. The following transfers or conversions by a depository institution shall not be deemed to be made for the purpose of achieving such compliance:

a. A transfer or conversion in the ordinary course of business, such as compliance with a contract to transfer funds from deposit accounts into repurchase agreements, mutual funds, or other nondeposit investments.

b. A transfer or conversion of deposits held in the name of an affiliate as a depositor of the depository institution.

c. A transfer of deposits, which are not subject to reacquisition, in an acquisition by an entity that is not an affiliate of the depository institution.

4. If the superintendent determines that an acquisition may involve a question of compliance with the deposit limitation set forth in subsection 2, the superintendent shall require that each depository institution and holding company involved in the acquisition submit to

the superintendent a statement certified by its president, chief executive officer, or chief financial officer, which states that a transfer, assignment, or other disposition of deposits prohibited by subsection 3 has not been made. The statement, in sufficient detail to permit the superintendent to make the determinations required under subsections 5 and 6, shall also set forth the following:

a. The total amount of deposits in this state directly or indirectly held or controlled by the depository institution making the statement, or the deposits in this state directly or indirectly held or controlled by all depository institutions that are directly or indirectly owned or controlled by the holding company, on the date of the most recent available deposit reports of the depository institutions.

b. If all of the deposits of a depository institution making a deposit report were directly or indirectly acquired since the date of the most recent available deposit report in an acquisition or as a result of a series of acquisitions, the statement shall set forth the amount of the deposits in this state acquired from each such other depository institution measured as of the date of the most recent available deposit report of each such depository institution made prior to the acquisition.

c. If less than all of the deposits of a depository institution were directly or indirectly acquired since the date of the most recent available deposit report in an acquisition or as a result of a series of acquisitions, the statement shall set forth the total amount of deposits in this state directly or indirectly acquired in such acquisitions.

d. The total amount of deposits in this state directly or indirectly owned or controlled by the depository institution or holding company making the statement that have been directly or indirectly transferred or assigned in a transaction since the date of the most recent available deposit report to an entity that is not an affiliate of the depository institution or holding company making the statement, and that are not subject to reacquisition.

e. The total amount of deposits in this state set forth in paragraph "a" plus the deposits described in paragraphs "b" and "c", and less the deposits described in paragraph "d".

f. The total amount of deposits in this state directly or indirectly held or controlled by the depository institution making the statement, or in the case of a statement by a holding company, the total amount of deposits in this state directly or indirectly held or controlled by all depository institutions that are directly or indirectly owned or controlled by the holding company, on the date of the earlier of the two most recent available deposit reports of the depository institutions.

g. If all of the deposits of any other depository institution making a deposit report were acquired between the dates of the two most recent available deposit reports in an acquisition or as a result of a series of acquisitions, the statement shall set forth the amount of the deposits in this state acquired from each such other depository institution measured as of the date of the earlier of the two most recent available deposit reports of each such depository institution made prior to the acquisition.

h. If less than all of the deposits of any depository institution were directly or indirectly acquired between the dates of the two most recent available deposit reports in an acquisition or as a result of a series of acquisitions, the statement shall set forth the total amount of deposits in this state directly or indirectly acquired in such acquisitions.

i. The total amount of deposits in this state directly or indirectly owned or controlled by the depository institution or holding company making the statement that have been directly or indirectly transferred or assigned in a transaction between the dates of the two most recent available deposit reports to an entity that is not an affiliate of the depository institution or holding company making the statement, and that are not subject to reacquisition.

j. The total amount of deposits in this state set forth in paragraph "f" plus the deposits described in paragraphs "g" and "h", and less the deposits described in paragraph "i".

5. The superintendent may conduct such review as the superintendent considers necessary to verify the statements submitted under subsection 4, paragraphs "a", "b", "c", and "d". The superintendent shall calculate the following fraction:

a. The numerator is the sum of the deposits in this state directly or indirectly owned or controlled by the depository institutions involved in the acquisition and the deposits in this state directly or indirectly owned or controlled by all other depository institutions directly or indirectly owned or controlled by a holding company involved in the acquisition, as stated in subsection 4, paragraph "e".

b. The denominator is the deposits in this state of all depository institutions as stated in the most recent available deposit reports.

6. The superintendent may conduct such review as the superintendent considers necessary to verify the statements submitted under subsection 4, paragraphs "f", "g", "h", and "i". The superintendent shall calculate the following fraction:

a. The numerator is the average of the sum of the deposits in this state directly or indirectly owned or controlled by the depository institutions involved in the acquisition and the deposits in this state directly or indirectly owned or controlled by all other depository institutions directly or indirectly owned or controlled by a holding company involved in the acquisition, as stated in subsection 4, paragraphs "e" and "j".

b. The denominator is the average of the deposits in this state of all depository institutions as stated in the two most recent available deposit reports.

7. If the quotient determined by the calculation in either subsection 5 or 6 exceeds fifteen percent, the proposed acquisition does not comply with the limitation of subsection 2.

Sec. 2. EFFECTIVE DATE AND RETROACTIVE APPLICABILITY. This Act, being deemed of immediate importance, takes effect upon enactment and is retroactively applicable to January 1, 2000.

Approved April 14, 2000

CHAPTER 1095

COLLEGE STUDENT AID — COMMISSION — PROGRAMS

S.F. 2248

AN ACT relating to the college student aid commission's membership, duties, and authority, and related federal employment reports.

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

Section 1. Section 19B.3, subsection 2, paragraph h, Code 1999, is amended to read as follows:

h. Require development of equal employment opportunity reports, including the initiation of the processes necessary for the completion of ~~the annual EEO-6~~ reports required by the federal equal employment opportunity commission.

Sec. 2. Section 261.1, subsection 2, Code 1999, is amended to read as follows:

2. The director of the department of education or the director's designee.

Sec. 3. Section 261.2, subsections 1, 2, 3, 5, and 7 through 10, Code 1999, are amended by striking the subsections.

Sec. 4. Section 261.9, subsection 1, unnumbered paragraph 1, Code 1999, is amended to read as follows:

"Accredited private institution" means an institution of higher learning located in Iowa which is operated privately and not controlled or administered by any state agency or any subdivision of the state, except for county hospitals as provided in paragraph "c" of this subsection, and which meets at least one of the ~~following~~ criteria in paragraphs "a" through "c" and all of the criteria in paragraphs "e" through "h":

Sec. 5. Section 261.9, subsection 1, paragraphs a, b, and c, Code 1999, are amended to read as follows:

a. ~~Which is~~ Is accredited by the north central association of colleges and secondary schools accrediting agency based on their requirements~~, or~~.

b. ~~Which has been~~ Is certified by the north central association of colleges and secondary schools accrediting agency as a candidate for accreditation by that agency~~, or~~.

c. ~~Which is~~ Is a school of nursing accredited by the national league for nursing and approved by the board of nurse examiners, including such a school operated, controlled, and administered by a county public hospital.

Sec. 6. Section 261.9, subsection 1, paragraph d, Code 1999, is amended by striking the paragraph.

Sec. 7. Section 261.9, subsection 1, paragraph e, unnumbered paragraph 1, Code 1999, is amended to read as follows:

~~Which promotes~~ Promotes equal opportunity and affirmative action efforts in the recruitment, appointment, assignment, and advancement of personnel at the institution. In carrying out this responsibility the institution shall do all of the following:

Sec. 8. Section 261.9, subsection 1, paragraph e, subparagraph (8), Code 1999, is amended to read as follows:

(8) Require development of equal employment opportunity reports, including the initiation of the processes necessary for the completion of ~~the annual EEO-6~~ reports required by the federal equal employment opportunity commission.

Sec. 9. Section 261.9, subsection 1, paragraph f, Code 1999, is amended to read as follows:

f. ~~Which adopts~~ Adopts a policy that prohibits unlawful possession, use, or distribution of controlled substances by students and employees on property owned or leased by the institution or in conjunction with activities sponsored by the institution. Each institution shall provide information about the policy to all students and employees. The policy shall include a clear statement of sanctions for violation of the policy and information about available drug or alcohol counseling and rehabilitation programs. In carrying out this policy, an institution shall provide substance abuse prevention programs for students and employees.

Sec. 10. Section 261.9, subsection 1, paragraph g, unnumbered paragraph 1, Code 1999, is amended to read as follows:

~~Which develops~~ Develops and implements a written policy, which is disseminated during student registration or orientation, addressing the following four areas relating to sexual abuse:

Sec. 11. Section 261.9, subsection 1, paragraph h, Code 1999, is amended to read as follows:

h. ~~Which files~~ Files a copy of the annual report required by the federal Student Right-To-Know and Campus Security Act, Pub. L. No. 101-542, with the division of criminal and juvenile justice planning of the department of human rights, along with a copy of the written policy developed pursuant to paragraph "g".

Sec. 12. Section 261.19, subsection 2, Code 1999, is amended to read as follows:

2. A forgivable loan may be awarded to a resident of Iowa who is enrolled at the university of osteopathic medicine and health sciences if the student agrees to practice in this state for a period of time to be determined by the commission at the time the loan is awarded. Forgivable loans to eligible students shall not become due ~~and interest on the loan shall not accrue~~ until after the student completes a residency program. Interest on the loans shall begin to accrue the day following the student's graduation date. If the student completes the period of practice established by the commission and agreed to by the student, the loan amount shall be forgiven. The loan amount shall not be forgiven if the osteopathic physician fails to complete the required time period of practice in this state or fails to satisfactorily continue in the university's program of medical education.

Sec. 13. Section 261.19B, Code 1999, is amended to read as follows:

261.19B OSTEOPATHIC ~~LOAN~~ PHYSICIAN RECRUITMENT REVOLVING FUND.

An osteopathic ~~loan~~ physician recruitment revolving fund is created in the state treasury as a separate fund under the control of the commission. The commission shall deposit payments made by osteopathic ~~loan~~ physician recruitment recipients and the proceeds from the sale of osteopathic loans into the osteopathic loan[1] revolving fund. Moneys credited to the fund shall be used to supplement moneys appropriated for the osteopathic ~~forgivable loan~~ physician recruitment program, for loan forgiveness to eligible physicians and to pay for loan or interest repayment defaults by eligible physicians. 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. 14. Section 261.25, subsection 5, Code Supplement 1999, is amended to read as follows:

5. For ~~the~~ each fiscal year ~~beginning July 1, 1989, and in succeeding years~~, the institutions of higher education that enroll recipients of Iowa tuition grants shall transmit to the Iowa college student aid commission information about the numbers of minority students enrolled and minority faculty members employed at the institution, and existing or proposed plans for the recruitment and retention of minority students and faculty as well as existing or proposed plans to serve nontraditional students. The Iowa college student aid commission shall compile and report the first fall academic semester or quarter enrollment and employment information and plans for the next fiscal year to the chairpersons and ranking members of the house and senate education committees, members of the joint education appropriations subcommittee, the governor, and the legislative fiscal bureau by ~~December 15~~ March 1 of each year.

Sec. 15. Section 261.86, subsection 2, Code Supplement 1999, is amended to read as follows:

2. ~~The amount of educational~~ Educational assistance ~~received by a national guard member~~ paid pursuant to this section shall ~~be determined by the adjutant general and shall~~ not exceed the resident tuition rate established for institutions of higher learning under the control of the state board of regents. If the amount appropriated in a fiscal year for purposes of this section is insufficient to provide educational assistance to all national guard members who apply for the program and who are determined by the adjutant general to be eligible for the program, the adjutant general shall, in coordination with the commission, determine the ~~amount~~ distribution of educational assistance ~~each eligible guard member shall receive~~. However, educational assistance paid ~~to an eligible national guard member~~ pursuant to this section shall not be less than ~~an amount equal to~~ fifty percent of the resident tuition rate established for institutions of higher learning under the control of the state board of regents or fifty percent of the tuition rate at the institution attended by the national guard member, whichever is lower. ~~The adjutant general shall not determine~~ Neither eligibility nor educational assistance ~~amounts~~ determinations shall be based upon a national guard member's unit, the location at which drills are attended, or whether the eligible individual is a member of the Iowa army or air national guard.

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[1] See chapter 1232, §63 herein

Sec. 16. Section 261.92, subsection 1, paragraph b, subparagraph (8), Code 1999, is amended to read as follows:

(8) Require development of equal employment opportunity reports, including the initiation of the processes necessary for the completion of ~~the annual EEO-6~~ reports required by the federal equal employment opportunity commission.

Sec. 17. Section 261B.3A, Code 1999, is amended to read as follows:

261B.3A REQUIREMENT.

~~A~~ In order to register, a school ~~offering courses or programs of study leading to a degree in the state of Iowa~~ shall be accredited by an agency or organization approved or recognized by the United States department of education or a successor agency and be approved for operation by the ~~appropriate state agencies in all other states in which it operates or maintains a presence~~ college student aid commission.

Sec. 18. Section 261B.4, subsection 9, Code 1999, is amended to read as follows:

9. ~~Whether~~ The name of the ~~school is accredited by any~~ accrediting agency recognized by the United States department of education or a successor agency ~~and, if so, the name of the accreditation body~~ which has accredited the school and the status under which accreditation is held.

Sec. 19. Section 261B.9, subsection 6, Code 1999, is amended to read as follows:

6. ~~Whether~~ The name of the ~~school is accredited by an~~ accrediting agency recognized by the United States department of education or its successor agency which has accredited the school.

Sec. 20. TRANSFER OF OSTEOPATHIC FORGIVABLE LOAN REVOLVING FUND MONEYS BY TREASURER. On the effective date of this Act, the treasurer of state shall transfer any balance in the osteopathic forgivable loan program[2] to the osteopathic physician recruitment revolving fund established pursuant to section 13 of this Act.

Sec. 21. DIRECTION TO CODE EDITOR. The Code editor is directed to correct internal references in section 261.9 of the Code as necessary in conjunction with the enactment of this Act.

Approved April 14, 2000

CHAPTER 1096

CHILD SUPPORT — MEDICAL SUPPORT — DATA MATCHING

S.F. 2254

AN ACT relating to child support, immunity from liability for financial institutions relating to data matching and levies against accounts, including medical support and payment of costs to financial institutions for data matching and automation program development and providing for retroactive applicability.

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

Section 1. Section 252E.1, subsection 10, Code 1999, is amended to read as follows:

10. "Order" means a support order entered pursuant to chapter 234, 252A, 252C, 252F, 252H, 252K, 598, 600B, or any other support chapter, or pursuant to a comparable statute of a foreign jurisdiction, or an ex parte order entered pursuant to section 252E.4. "Order" also includes a notice of such an order issued by the child support recovery unit to an employer.

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[2] See chapter 1232, §89 herein

Sec. 2. Section 252E.2, Code 1999, is amended by adding the following new subsection:
NEW SUBSECTION. 4. A medical support order of a foreign jurisdiction may be entered or filed with the clerk of the district court. However, entry of such a medical support order under this subsection does not constitute registration of that medical support order.

Sec. 3. Section 252I.4, subsections 3 and 4, Code Supplement 1999, are amended to read as follows:

3. The unit may pay a reasonable fee to a financial institution for conducting the data match required in subsection 2, not to exceed the lower of either one hundred fifty dollars for each quarterly data match or the actual costs incurred by the financial institution for each quarterly data match. However, the unit may also adopt rules pursuant to chapter 17A to specify a fee amount for each quarterly data match based upon the estimated state share of funds collected under this chapter, which, when adopted, shall be applied in lieu of the one hundred fifty dollar fee under this subsection. In addition, the unit may pay a reasonable fee to a financial institution for automation programming development performed in order to conduct the data match required in subsection 2, not to exceed the lower of either five hundred dollars or the actual costs incurred by the financial institution. The unit may use the state share of funds collected under this chapter to pay the fees to financial institutions under this subsection. For state fiscal years beginning July 1, 1999, and July 1, 2000, the unit may use up to one hundred percent of the state share of such funds. For state fiscal years beginning on or after July 1, 2001, the unit may use up to fifty percent of the state share of such funds. Notwithstanding any other provision of law to the contrary, a financial institution shall have until a date provided in the agreement in subsection 2 to submit its claim for a fee under this subsection. If the unit does not have sufficient funds available under this subsection for payment of fees under this subsection for conducting data matches or for automation program development performed in the fiscal year beginning July 1, 1999, the cost may be carried forward to ~~a future~~ the fiscal year beginning July 1, 2000. The unit may also use funds from an amount assessed a child support agency of another state, as defined in section 252H.2, to conduct a data match requested by that child support agency as provided in 42 U.S.C. § 666(a)(14) to pay fees to financial institutions under this subsection.

4. a. ~~The~~ A financial institution is immune from any liability in any action or proceeding, whether civil or criminal, ~~which might otherwise be incurred or imposed~~ for any of the following:

~~a.~~ (1) ~~Any~~ The disclosure of any information ~~released~~ by ~~the~~ a financial institution to the unit pursuant to this ~~section~~ chapter or the rules or procedures adopted by the unit to implement this chapter, including disclosure of information relating to an obligor who maintains an account with the financial institution or disclosure of information relating to any other person who maintains an account with the financial institution that is provided for the purpose of complying with the data match requirements of this section and with the agreement entered into between the financial institution and the unit pursuant to subsection 2.

~~b.~~ (2) Any encumbrance or surrender of any assets held by ~~the~~ a financial institution in response to a notice of lien or levy issued by the unit.

~~c.~~ (3) Any ~~other~~ action ~~taken in~~ or omission in connection with good faith efforts to comply with this ~~section or section 252I.7~~ chapter or any rules or procedures that are adopted by the unit to implement this chapter.

(4) The disclosure, use, or misuse by the unit or by any other person of information provided or assets delivered to the unit by a financial institution.

b. For the purposes of this section, "financial institution" includes officers, directors, employees, contractors, and agents of the financial institution.

Sec. 4. RETROACTIVE APPLICABILITY. Section 252I.4, subsection 3,[1] as amended in this Act, is retroactively applicable to January 1, 2000.

Approved April 14, 2000

[1] See chapter 1232, §90, 95 herein

CHAPTER 1097

PUBLIC AND WORKPLACE SAFETY AND WAGE PAYMENT COLLECTION

S.F. 2307

AN ACT relating to public and workplace safety and wage collection laws administered by the labor commissioner, including changes in the regulation of boilers in places of public assembly and of elevator installers, and of employers under the wage payment collection law.

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

Section 1. Section 89.2, subsection 4, Code 1999, is amended by striking the subsection and inserting in lieu thereof the following:

4. "Public assembly" means the assembly of people in any of the following:

a. A building or structure primarily used as a theater, motion picture theater, museum, arena, exhibition hall, school, college, dormitory, bowling alley, physical fitness center, family entertainment center, lodge hall, union hall, pool hall, casino, place of worship, funeral home, institution of health and custodial care, hospital, or child care or adult day care.

b. A building or structure, a portion of which is primarily used for amusement, entertainment, or instruction.

c. A building or structure owned by or leased to the state or any of its agencies or political subdivisions.

However, for purposes of this chapter, "public assembly" does not include the assembly of people in buildings or structures containing only eating and drinking establishments or in any building used exclusively by an employer for training or instruction of its own employees.

Sec. 2. Section 89A.1, Code Supplement 1999, is amended by adding the following new subsection:

NEW SUBSECTION. 16A. "Owner" means the owner of a facility, unless the facility 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 facility until the facility has passed final inspection by the division.

Sec. 3. NEW SECTION. 91A.14 FORMER EMPLOYEES.

The rights and obligations outlined in this chapter continue until they are fulfilled, even though the employer-employee relationship has been severed.

Approved April 14, 2000

CHAPTER 1098

REGULATION OF PARA-EDUCATORS AND EDUCATION PRACTITIONERS

H.F. 2146

AN ACT relating to the authority of the board of educational examiners over certification and licensing of para-educators and practitioners.

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

Section 1. Section 256.7, Code 1999, is amended by adding the following new subsection:

NEW SUBSECTION. 22. Adopt rules and a procedure for the approval of para-educator

preparation programs offered by a public school district, area education agency, community college, institution of higher education under the state board of regents, or an accredited private institution as defined in section 261.9, subsection 1. The programs shall train and recommend individuals for para-educator certification under section 272.12.

Sec. 2. Section 272.1, Code 1999, is amended by adding the following new subsection:
NEW SUBSECTION. 2A. "Certificate" means limited recognition to perform instruction and instruction-related duties in school, other than those duties for which practitioners are licensed. A certificate is nonexclusive recognition and does not confer the exclusive authority of a license.

Sec. 3. Section 272.1, subsections 4 and 5, Code 1999, are amended to read as follows:
4. "License" means the authority that is given to allow a person to legally serve as a practitioner, a school, an institution, or a course of study to legally offer professional development programs, other than those programs offered by practitioner preparation schools, institutions, courses of study, or area education agencies. A license is the exclusive authority to perform these functions.
5. "Para-educator" means a person who is ~~licensed~~ certified to assist a teacher in the performance of instructional tasks to support and assist classroom instruction and related school activities.

Sec. 4. Section 272.6, Code 1999, is amended to read as follows:
272.6 QUALIFICATIONS FOR PRACTITIONERS.
1. The board shall determine whether an applicant is qualified to perform the duties for which a license is sought. Applicants shall be disqualified for any of the following reasons:
~~1.~~ a. The applicant is less than twenty-one years of age. However, a student enrolled in a practitioner preparation program who meets board requirements for a temporary, limited-purpose license who is seeking to teach as part of a practicum or internship may be less than twenty-one years of age.
~~2.~~ b. The applicant has been convicted of child abuse or sexual abuse of a child.
~~3.~~ c. The applicant has been convicted of a felony.
~~4.~~ d. The applicant's application is fraudulent.
~~5.~~ e. The applicant's license or certification from another state is suspended or revoked.
~~6.~~ f. The applicant fails to meet board standards for application for an initial or renewed license.
2. Qualifications or criteria for the granting or revocation of a license or the determination of an individual's professional standing shall not include membership or nonmembership in any teachers' organization.
3. An applicant for a license or certificate under this chapter shall demonstrate that the requirements of the license or certificate have been met and the burden of proof shall be on the applicant.

Sec. 5. Section 272.12, Code 1999, is amended by striking the section and inserting in lieu thereof the following:
272.12 PARA-EDUCATOR CERTIFICATES.
The board of educational examiners shall adopt rules pursuant to chapter 17A relating to a voluntary certification system for para-educators. The rules shall specify rights, responsibilities, levels, and qualifications for the certificate. Applicants shall be disqualified for any reason specified in section 272.6 or in administrative rule.[1] A person holding a para-educator certificate shall not perform the duties of a licensed practitioner. A certificate issued pursuant to this chapter shall not be considered a teacher or administrator license for any purpose specified by law, including the purposes specified under this chapter or chapter 279.

Approved April 14, 2000

[1] See chapter 1223, §31 herein

CHAPTER 1099

OPERATING A MOTORBOAT OR SAILBOAT WHILE INTOXICATED

H.F. 2331

AN ACT relating to operating a motorboat or sailboat while intoxicated and providing penalties.

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

Section 1. Section 462A.2, Code 1999, is amended by striking the section and inserting in lieu thereof the following:

462A.2 DEFINITIONS.

As used in this chapter, unless the context clearly requires a different meaning:

1. "Alcohol concentration" means the number of grams of alcohol per any of the following:

a. One hundred milliliters of blood.

b. Two hundred ten liters of breath.

c. Sixty-seven milliliters of urine.

2. "Alcoholic beverage" includes alcohol, wine, spirits, beer, or any other beverage which contains ethyl alcohol and is fit for human consumption.

3. "Authorized emergency vessel" means any vessel which is designated or authorized by the commission for use in law enforcement, search and rescue, and disaster work.

4. "Boat livery" means a person who holds a vessel for hire, renting, leasing, or chartering including hotels, motels, or resorts which furnish a vessel to guests as part of the services of the business.

5. "Certificate" means a certificate of title.

6. "Chemical test" means an analysis of a person's blood, breath, urine, or other bodily substance for the determination of the presence of alcohol, a controlled substance, or a drug.

7. "Commission" means the natural resource commission.

8. "Controlled substance" means any drug, substance, or compound that is regulated under chapter 124, including any counterfeit substance or simulated controlled substance, as well as any metabolite or derivative of the drug, substance or compound.

9. "Dealer" means a person who engages in whole or in part in the business of buying, selling, or exchanging vessels either outright or on conditional sale, bailment, lease, security interest, or otherwise, and who has an established place of business for sale, trade, and display of vessels. A yachtbroker is a dealer.

10. "Department" means the department of natural resources.

11. "Director" means the director of the department or the director's designee.

12. "Established place of business" means the place actually occupied either continuously or at regular periods by a dealer or manufacturer where the dealer's or manufacturer's books and records are kept and a large share of the dealer's or manufacturer's business is transacted.

13. "Farm pond" means a body of water wholly on the lands of a single owner, or a group of joint owners, which does not have any connection with any public waters and which is less than ten surface acres.

14. "Inboard" means a vessel in which the engine is located internally, the propulsion system is rigidly attached to the engine, and the propulsion mechanism is within the confines of the vessel's extreme length and beam.

15. "Inboard-outdrive" means a vessel in which the power plant or engine is located inside of the vessel and the propulsion mechanism is located outside of the transom.

16. "Inflatable vessel" means a vessel which achieves and maintains its intended shape and buoyancy by inflation.

17. "Lienholder" means a person holding a security interest.

18. "Manufacturer" means a person engaged in the business of manufacturing or importing new and unused vessels, or new and unused outboard motors, for the purpose of sale or trade.

19. "Motorboat" means any vessel propelled by an inboard, inboard outdrive, or outboard engine, whether or not such engine is the principal source of propulsion.

20. "Navigable waters" means all lakes, rivers and streams, which can support a vessel capable of carrying one or more persons during a total of six months period in one out of every ten years.

21. "Nonresident" means every person who is not a resident of this state.

22. "Operate" means to navigate or otherwise use a vessel or motorboat.

23. "Operator" means a person who operates or is in actual physical control of a vessel.

24. "Owner" means a person, other than a lienholder, having the property right in or title to a motorboat or vessel. The term includes a person entitled to the use or possession of a vessel or motorboat subject to an interest in another person, reserved or created by agreement and securing payment or performance of an obligation, but the term excludes a lessee under a lease not intended as security.

25. "Passenger" means a person carried on board a vessel, including the operator, and anyone towed by a vessel on water skis, surfboards, inner tubes, or similar devices.

26. "Peace officer" means:

a. A member of the Iowa state patrol.

b. A police officer under civil service as provided in chapter 400.

c. A sheriff.

d. A regular deputy sheriff who has had formal police training.

e. Any other certified law enforcement officer as defined in section 80B.3, who has satisfactorily completed an approved course relating to operating while intoxicated, either at the Iowa law enforcement academy or in a law enforcement training program approved by the department of public safety.

27. "Person" means an individual, partnership, firm, corporation or association.

28. "Privately owned lake" means any lake, located within the boundaries of this state and not subject to federal control covering navigation owned by an individual, group of individuals, or a nonprofit corporation and which is not open to the use of the general public but is used exclusively by the owners and their personal guests.

29. "Proceeds" includes whatever is received when collateral or proceeds are sold, exchanged, collected, or otherwise disposed of. The term also includes the account arising when the right to payment is earned under a contract right. Money, checks, and the like are cash "proceeds". All other proceeds are "noncash proceeds".

30. "Sailboard" means a windsurfing vessel with a mount for a sail, a daggerboard, and a small skeg.

31. "Sailboat" means any watercraft operated with a sail.

32. "Security interest" means an interest which is reserved or created by an agreement which secures payment or performance of an obligation and is valid against third parties generally.

33. "Serious injury" means a bodily injury which creates a substantial risk of death, or which causes serious permanent disfigurement, or which causes protracted loss or impairment of the function of any bodily organ or major bodily member, or which causes the loss of any bodily member.

34. "State of principal use" means the state on whose waters a vessel is used or to be used most during a calendar year.

35. "Undocumented vessel" means any vessel which is not required to have, and does not have, a valid marine document issued by the bureau of customs or a foreign government.

36. "Use" means to operate, navigate, or employ a vessel. A vessel is in use whenever it is upon the water.

37. "Vessel" means every description of watercraft, other than a seaplane, used or capable of being used as a means of transportation on water or ice. Ice boats are watercraft.

38. "Vessel for hire or commercial vessel" means a vessel for the use of which a fee of any nature is imposed including vessels furnished as a part of lodge, hotel, or resort services.

39. "Wake" means any movement of water created by a vessel which adversely affects the activities of another person who is involved in activities approved for that area or which may adversely affect the natural features of the shoreline.

40. "Watercraft" means any vessel which through the buoyance force of water floats upon the water and is capable of carrying one or more persons.

41. "Waters of this state under the jurisdiction of the commission" means any navigable waters within the territorial limits of this state, and the marginal river areas adjacent to this state, exempting only farm ponds and privately owned lakes.

42. "Writing fee" means the amount paid by the boat owner to the county recorder for handling the transaction.

Sec. 2. Section 462A.14, Code 1999, is amended by striking the section and inserting in lieu thereof the following:

462A.14 OPERATING A MOTORBOAT OR SAILBOAT WHILE INTOXICATED.

1. A person commits the offense of operating a motorboat or sailboat while intoxicated if the person operates a motorboat or sailboat on the navigable waters of this state in any of the following conditions:

a. While under the influence of an alcoholic beverage or other drug or a combination of such substances.

b. While having an alcohol concentration of .10 or more.

c. While any amount of a controlled substance is present in the person, as measured in the person's blood or urine.

2. A person who violates subsection 1 commits:

a. A serious misdemeanor for the first offense, punishable by all of the following:

(1) Imprisonment in the county jail for not less than forty-eight hours, to be served as ordered by the court, less credit for any time the person was confined in a jail or detention facility following arrest. However, the court, in ordering service of the sentence and in its discretion, may accommodate the defendant's work schedule.

(2) Assessment of a fine of one thousand dollars. However, in the discretion of the court, if no personal or property injury has resulted from the defendant's actions, up to five hundred dollars of the fine may be waived. As an alternative to a portion or all of the fine, the court may order the person to perform unpaid community service.

(3) Prohibition of operation of a motorboat or sailboat for one year, pursuant to court order.

(4) Assignment to substance abuse evaluation and treatment, pursuant to subsection 12, and a course for drinking drivers.

b. An aggravated misdemeanor for a second offense, punishable by all of the following:

(1) Imprisonment in the county jail or community-based correctional facility for not less than seven days.

(2) Assessment of a fine of not less than one thousand five hundred dollars nor more than five thousand dollars.

(3) Prohibition of operation of a motorboat or sailboat for two years, pursuant to court order.

(4) Assignment to substance abuse evaluation and treatment, pursuant to subsections 12 and 13, and a course for drinking drivers.

c. A class "D" felony for a third offense and each subsequent offense, punishable by all of the following:

(1) Imprisonment in the county jail for a determinate sentence of not more than one year but not less than thirty days, or committed to the custody of the director of the department of corrections. A person convicted of a third or subsequent offense may be committed to the custody of the director of the department of corrections, who shall assign the person to a facility pursuant to section 904.513 or the offender may be committed to treatment in the community under the provisions of section 907.13.

(2) Assessment of a fine of not less than two thousand five hundred dollars nor more than seven thousand five hundred dollars.

(3) Prohibition of operation of a motorboat or sailboat for six years, pursuant to court order.

(4) Assignment to substance abuse evaluation and treatment, pursuant to subsections 12 and 13, and a course for drinking drivers.

d. A class "D" felony for any offense under this section resulting in serious injury to persons other than the defendant, if the court determines that the person who committed the offense caused the serious injury, and shall be imprisoned for a determinate sentence of not more than five years but not less than thirty days, or committed to the custody of the director of the department of corrections, and assessed a fine of not less than two thousand five hundred dollars nor more than seven thousand five hundred dollars. A person convicted of a felony offense may be committed to the custody of the director of the department of corrections, who shall assign the person to a facility pursuant to section 904.513. The court shall also order that the person not operate a motorboat or sailboat for one year in addition to any other period of time the defendant would have been ordered not to operate if no injury had occurred in connection with the violation. The court shall also assign the defendant to substance abuse evaluation and treatment pursuant to subsections 12 and 13, and a course for drinking drivers.

e. A class "B" felony for any offense under this section resulting in the death of persons other than the defendant, if the court determines that the person who committed the offense caused the death, and shall be imprisoned for a determinate sentence of not more than twenty-five years, or committed to the custody of the director of the department of corrections. A person convicted of a felony offense may be committed to the custody of the director of the department of corrections, who shall assign the person to a facility pursuant to section 904.513. The court shall also order that the person not operate a motorboat or sailboat for six years. The court shall also assign the defendant to substance abuse evaluation and treatment pursuant to subsections 12 and 13, and a course for drinking drivers.

3. a. Notwithstanding the provisions of sections 901.5 and 907.3, the court shall not defer judgment or sentencing, or suspend execution of any mandatory minimum sentence of incarceration applicable to the defendant under subsection 2, and shall not suspend execution of any other part of a sentence not involving incarceration imposed pursuant to subsection 2, if any of the following apply:

(1) If the defendant's alcohol concentration established by the results of an analysis of a specimen of the defendant's blood, breath, or urine withdrawn in accordance with this chapter exceeds .15, regardless of whether or not the alcohol concentration indicated by the chemical test minus the established margin of error inherent in the device or method used to conduct the test equals an alcohol concentration of .15 or more.

(2) If the defendant has previously been convicted of a violation of subsection 1 or a statute in another state substantially corresponding to subsection 1.

(3) If the defendant has previously received a deferred judgment or sentence for a violation of subsection 1 or for a violation of a statute in another state substantially corresponding to subsection 1.

(4) If the defendant refused to consent to testing requested in accordance with section 462A.14A.

(5) If the offense under this section results in bodily injury to a person other than the defendant.

b. A minimum term of imprisonment in a county jail or community-based correctional facility imposed on a person convicted of a second or subsequent offense under subsection 2 shall be served on consecutive days. However, if the sentencing court finds that service of the full minimum term on consecutive days would work an undue hardship on the person, or finds that sufficient jail space is not available and is not reasonably expected to become available within four months after sentencing to incarcerate the person serving the minimum sentence on consecutive days, the court may order the person to serve the minimum term in segments of at least forty-eight hours and to perform a specified number of hours of unpaid community service as deemed appropriate by the sentencing court.

4. In determining if a violation charged is a second or subsequent offense for purposes of criminal sentencing or license or privilege revocation under this section:

a. Any conviction under this section within the previous twelve years shall be counted as a previous offense.

b. Deferred judgments entered pursuant to section 907.3 for violations of this section shall be counted as previous offenses.

c. Convictions or the equivalent of deferred judgments for violations in any other states under statutes substantially corresponding to this section shall be counted as previous offenses. The courts shall judicially notice the statutes of other states which define offenses substantially equivalent to an offense defined in this section and can therefore be considered corresponding statutes. Each previous violation on which conviction or deferral of judgment was entered prior to the date of the violation charged shall be considered and counted as a separate previous offense.

5. A person shall not be convicted and sentenced for more than one violation of this section for actions arising out of the same event or occurrence, even if the event or occurrence involves more than one of the conditions specified in subsection 1. However, a person who refuses a test pursuant to section 462A.14B may be subject to imposition of the penalties under that section in addition to the penalties under this section if the person violates both sections, even though the actions arise out of the same event or occurrence.

6. The clerk of the district court shall immediately certify to the department a true copy of each order entered with respect to deferral of judgment, deferral of sentence, or pronouncement of judgment and sentence for a defendant under this section.

7. 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.

b. When charged with a violation of subsection 1, paragraph "c", a person may assert, as an affirmative defense, that the controlled substance present in the person's blood or urine was prescribed or dispensed for the person and was taken in accordance with the directions of a practitioner and the labeling directions of the pharmacy, as that person and place of business are defined in section 155A.3.

8. In any prosecution under this section, evidence of the results of analysis of a specimen of the defendant's blood, breath, or urine is admissible upon proof of a proper foundation.

a. The alcohol concentration established by the results of an analysis of a specimen of the defendant's blood, breath, or urine withdrawn within two hours after the defendant was operating or in physical control of a motorboat or sailboat is presumed to be the alcohol concentration at the time of operating or being in physical control of the motorboat or sailboat.

b. The presence of a controlled substance or other drug established by the results of analysis of a specimen of the defendant's blood or urine withdrawn within two hours after the defendant was operating or in physical control of a motorboat or sailboat is presumed to show the presence of such controlled substance or other drug in the defendant at the time of operating or being in physical control of the motorboat or sailboat.

c. The nationally accepted standards for determining detectable levels of controlled substances in the division of criminal investigation's initial laboratory screening test for controlled substances adopted by the department of public safety shall be utilized in prosecutions under this section.

9. a. In addition to any fine or penalty imposed under this chapter, the court shall order a defendant convicted of or receiving a deferred judgment for a violation of this section to make restitution for damages resulting directly from the violation, to the victim, pursuant to chapter 910. An amount paid pursuant to this restitution order shall be credited toward any

adverse judgment in a subsequent civil proceeding arising from the same occurrence. However, other than establishing a credit, a restitution proceeding pursuant to this section shall not be given evidentiary or preclusive effect in a subsequent civil proceeding arising from the same occurrence.

b. The court may order restitution paid to any public agency for the costs of the emergency response resulting from the actions constituting a violation of this section, not exceeding five hundred dollars per public agency for each such response. For the purposes of this paragraph, "emergency response" means any incident requiring response by fire fighting, law enforcement, ambulance, medical, or other emergency services. A public agency seeking such restitution shall consult with the county attorney regarding the expenses incurred by the public agency, and the county attorney may include the expenses in the statement of pecuniary damages pursuant to section 910.3.

10. In any prosecution under this section, the results of a chemical test shall not be used to prove a violation of subsection 1, paragraph "b" or paragraph "c", if the alcohol, controlled substance, or other drug concentration indicated by the chemical test minus the established margin of error inherent in the device or method used to conduct the chemical test does not equal or exceed the level prohibited by subsection 1.

11. This section does not limit the introduction of any competent evidence bearing on the question of whether a person was under the influence of an alcoholic beverage or a controlled substance or other drug, including the results of chemical tests of specimens of blood, breath, or urine obtained more than two hours after the person was operating a motorboat or sailboat.

12. a. All substance abuse evaluations required under this section shall be completed at the defendant's expense.

b. In addition to assignment to substance abuse evaluation and treatment under this section, the court shall order any defendant convicted under this section to follow the recommendations proposed in the substance abuse evaluation for appropriate substance abuse treatment for the defendant. Court-ordered substance abuse treatment is subject to the periodic reporting requirements of section 125.86.

c. If a defendant is committed by the court to a substance abuse treatment facility, the administrator of the facility shall report to the court when it is determined that the defendant has received the maximum benefit of treatment at the facility and the defendant shall be released from the facility. The time for which the defendant is committed for treatment shall be credited against the defendant's sentence.

d. The court may prescribe the length of time for the evaluation and treatment or the court may request that the community college[1] conducting the course for drinking drivers which the defendant is ordered to attend or the treatment program to which the defendant is committed immediately report to the court when the defendant has received maximum benefit from the course for drinking drivers or treatment program or has recovered from the defendant's addiction, dependency, or tendency to chronically abuse alcohol or drugs.

e. Upon successfully completing a course for drinking drivers or an ordered substance abuse treatment program, a court may place the defendant on probation for six months and as a condition of probation, the defendant shall attend a program providing posttreatment services relating to substance abuse as approved by the court.

f. A defendant committed under this section who does not possess sufficient income or estate to make payment of the costs of the treatment in whole or in part shall be considered a state patient and the costs of treatment shall be paid as provided in section 125.44.

g. A defendant who fails to carry out the order of the court shall be confined in the county jail for twenty days in addition to any other imprisonment ordered by the court or may be ordered to perform unpaid community service work, and shall be placed on probation for one year with a violation of this probation punishable as contempt of court.

h. In addition to any other condition of probation, the defendant shall attend a program providing substance abuse prevention services or posttreatment services related to substance

[1] See chapter 1138 and chapter 1232, §74 herein

abuse as ordered by the court. The defendant shall report to the defendant's probation officer as ordered concerning proof of attendance at the treatment program or posttreatment program ordered by the court. Failure to attend or complete the program shall be considered a violation of probation and is punishable as contempt of court.

13. a. Upon a second or subsequent offense in violation of section 462A.14, the court upon hearing may commit the defendant for inpatient treatment of alcoholism or drug addiction or dependency to any hospital, institution, or community correctional facility in this state providing such treatment. The time for which the defendant is committed for treatment shall be credited against the defendant's sentence.

b. The court may prescribe the length of time for the evaluation and treatment or the court may request that the hospital to which the defendant is committed immediately report to the court when the defendant has received maximum benefit from the program of the hospital or institution or has recovered from the defendant's addiction, dependency, or tendency to chronically abuse alcohol or drugs.

c. A defendant committed under this section who does not possess sufficient income or estate to make payment of the costs of the treatment in whole or in part shall be considered a state patient and the costs of treatment shall be paid as provided in section 125.44.

Sec. 3. NEW SECTION. 462A.14A IMPLIED CONSENT TO TEST.

1. A person who operates a motorboat or sailboat on the navigable waters in this state under circumstances which give reasonable grounds to believe that the person has been operating a motorboat or sailboat in violation of section 462A.14 is deemed to have given consent to the withdrawal of specimens of the person's blood, breath, or urine and to a chemical test or tests of the specimens for the purpose of determining the alcohol concentration or presence of controlled substances or other drugs, subject to this section.

2. a. If a peace officer has reasonable grounds to believe that any of the following has occurred, the peace officer may request that the motorboat or sailboat operator provide a sample of the operator's breath for a preliminary screening test using a device approved by the commissioner of public safety for that purpose:

(1) The motorboat or sailboat operator may be violating or has violated section 462A.14.

(2) The motorboat or sailboat has been involved in an accident resulting in injury or death.

(3) The motorboat or sailboat operator is or has been operating carelessly or recklessly, in violation of section 462A.12.

b. The results of this preliminary screening test may be used for the purpose of deciding whether an arrest should be made or whether to request a chemical test authorized in this chapter, but shall not be used in any court action except to prove that a chemical test was properly requested of a person pursuant to this section.

3. The withdrawal of the body substances and the test or tests shall be administered at the written request of a peace officer having reasonable grounds to believe that the person was operating a motorboat or sailboat in violation of section 462A.14, and if any of the following conditions exist:

a. A peace officer has lawfully placed the person under arrest for violation of section 462A.14.

b. The motorboat or sailboat has been involved in an accident or collision resulting in personal injury or death.

c. The person has refused to take a preliminary breath screening test provided by this chapter.

d. The preliminary breath screening test was administered and it indicated an alcohol concentration equal to or in excess of the level prohibited by section 462A.14.

e. The preliminary breath screening test was administered and it indicated an alcohol concentration of less than the level prohibited under section 462A.14, and the peace officer has reasonable grounds to believe that the person was under the influence of a controlled substance, a drug other than alcohol or a combination of alcohol and another drug.

4. a. The peace officer shall determine which of the three substances, breath, blood, or urine, shall be tested.

b. If the peace officer fails to offer a test within two hours after the preliminary screening

test is administered or refused, or the arrest is made, whichever occurs first, a test is not required, and there shall be no suspension of motorboat or sailboat operation privileges.

c. Refusal to submit to a chemical test of urine or breath is deemed a refusal to submit, and the peace officer shall inform the person that the person's refusal will result in the suspension of the person's privilege to operate a motorboat or sailboat.

d. Refusal to submit to a chemical test of blood is not deemed a refusal to submit, but in that case, the peace officer shall then determine which one of the other two substances shall be tested and shall offer the test.

e. Notwithstanding paragraphs "a" through "d", if the peace officer has reasonable grounds to believe that the person was under the influence of a drug other than alcohol, or a combination of alcohol and another drug, a urine test may be required even after a blood or breath test has been administered.

f. A person who is dead, unconscious, or otherwise in a condition rendering the person incapable of consent or refusal is deemed not to have withdrawn the consent provided by this section, and the test may be given if a licensed physician certifies in advance of the test that the person is dead, unconscious, or otherwise in a condition rendering that person incapable of consent or refusal.

g. A person who has been requested to submit to a chemical test shall be advised by a peace officer of the following:

(1) A refusal to submit to the test is punishable by a mandatory civil penalty of five hundred to two thousand dollars, and suspension of motorboat or sailboat operating privileges for at least a year. In addition, if the person is also convicted of operating a motorboat or sailboat while intoxicated, the person shall be subject to additional penalties.

(2) If the person submits to the test and the results indicate an alcohol concentration equal to or in excess of the level prohibited under section 462A.14 and the person is convicted, the person's motorboat or sailboat operating privileges will be suspended for at least one year and up to six years, depending upon how many previous convictions the person has under this chapter, and whether or not the person has caused serious injury or death, in addition to any sentence and fine imposed for a violation of section 462A.14.

5. Refusal to submit to a test under this section does not prohibit the withdrawal of a specimen for chemical testing if a motorboat or sailboat has been involved in an accident resulting in death or serious bodily injury, if the peace officer has reasonable grounds to believe that the operator of the motorboat or sailboat was violating section 462A.14 at the time of the accident, and the peace officer has obtained, in compliance with chapter 808 or according to the procedure in section 462A.14D, a search warrant permitting the withdrawal of a specimen for chemical testing. The act of any person knowingly resisting or obstructing the withdrawal of a specimen pursuant to a search warrant issued under this section constitutes a contempt punishable by a fine not exceeding one thousand dollars or imprisonment in a county jail not exceeding one year or by both such fine and imprisonment, and further constitutes a refusal to submit, punishable under this section.

6. Only a licensed physician, licensed physician assistant as defined in section 148C.1, medical technologist, or registered nurse, acting at the request of a peace officer, may withdraw a specimen of blood for the purpose of determining the alcohol concentration or the presence of a controlled substance or other drugs. However, any peace officer, using devices and methods approved by the commissioner of public safety, may take a specimen of a person's breath or urine for the purpose of determining the alcohol concentration or the presence of drugs. Only new equipment kept under strictly sanitary and sterile conditions shall be used for drawing blood. Medical personnel who use reasonable care and accepted medical practices in withdrawing blood specimens are immune from liability for their actions in complying with requests made of them pursuant to this section.

7. The person may have an independent chemical test or tests administered at the person's own expense in addition to any administered at the direction of a peace officer. The failure or inability of the person to obtain an independent chemical test or tests does not preclude

the admission of evidence of the results of the test or tests administered at the direction of the peace officer. Upon the request of the person who is tested, the results of the test or tests administered at the direction of the peace officer shall be made available to the person.

8. In any prosecution under section 462A.14, evidence of the results of analysis of a specimen of the defendant's blood, breath, or urine is admissible upon proof of a proper foundation. The alcohol concentration established by the results of an analysis of a specimen of the defendant's blood, breath, or urine withdrawn within two hours after the defendant was operating or was otherwise in physical control of a motorboat or sailboat is presumed to be the alcohol concentration at the time of operation or being in physical control of the motorboat or sailboat. If a person refuses to submit to a chemical test, proof of refusal is admissible in any civil or criminal action or proceeding arising out of acts alleged to have been committed while the person was operating a motorboat or sailboat in violation of section 462A.14. This section does not limit the introduction of any competent evidence bearing on the question of whether a person was under the influence of an alcoholic beverage or a controlled substance or other drug, including the results of chemical tests of specimens of blood, breath, or urine obtained more than two hours after the person was operating a motorboat or sailboat.

Sec. 4. NEW SECTION. 462A.14B REFUSAL TO SUBMIT — PENALTY.

1. If a person refuses to submit to the chemical testing, a test shall not be given unless the procedure in section 462A.14D is invoked. However, if the person refuses the test, the person shall be punishable by the court according to this section.

2. The court, upon finding that the officer had reasonable ground to believe the person to have been operating a motorboat or sailboat in violation of section 462A.14, that specified conditions existed for chemical testing pursuant to section 462A.14A, and that the person refused to submit to the chemical testing, shall:

a. Order that the person shall not operate a motorboat or sailboat for one year.

b. Impose a mandatory civil penalty as follows:

(1) For a first refusal under this section, five hundred dollars.

(2) For a second refusal under this section, one thousand dollars.

(3) For a third or subsequent refusal under this section, two thousand dollars.

3. If the person does not pay the civil penalty by the time the one-year order not to operate expires, the court shall extend the order not to operate a motorboat or sailboat for an additional year, and may also impose penalties for contempt.

4. The court shall not defer judgment or sentencing, or suspend execution of any order or fine applicable under this section.

5. The penalties imposed by this section shall apply in addition to any penalties imposed under section 462A.14, except that the one-year period under the order not to operate a motorboat or sailboat under this section shall be imposed and run concurrently with any period of time a defendant is ordered not to operate a motorboat or sailboat under section 462A.14.

Sec. 5. NEW SECTION. 462A.14C STATEMENT OF OFFICER.

1. A person who has been requested to submit to a chemical test shall be advised by a peace officer of the following:

a. A refusal to submit to the test is punishable by a mandatory civil penalty of five hundred to two thousand dollars, and suspension of motorboat or sailboat operating privileges for at least a year. In addition, if the person is also convicted of operating a motorboat or sailboat while intoxicated, the person shall be subject to additional penalties.

b. If the person submits to the test and the results indicate the presence of a controlled substance or other drug, or an alcohol concentration equal to or in excess of the level prohibited by section 462A.14, the person's privilege to operate a motorboat or sailboat will be prohibited for at least one year, and up to six years.

2. This section does not apply in any case involving a person described in section 462A.14A, subsection 4, paragraph "f".

3. If a person refuses to submit to a chemical test, proof of refusal is admissible in any civil or criminal action or proceeding arising out of acts alleged to have been committed while the person was operating a motorboat or sailboat in violation of section 462A.14.

Sec. 6. NEW SECTION. 462A.14D TESTS PURSUANT TO WARRANTS.

1. Refusal to consent to a test under section 462A.14A does not prohibit the withdrawal of a specimen for chemical testing pursuant to a search warrant issued in the investigation of a suspected violation of section 462A.14 if all of the following grounds exist:

a. An accident has resulted in a death or personal injury reasonably likely to cause death.

b. There are reasonable grounds to believe that one or more of the persons whose operation of a motorboat or sailboat may have been the proximate cause of the accident was violating section 462A.14 at the time of the accident.

2. Search warrants may be issued under this section in full compliance with chapter 808 or search warrants may be issued under subsection 3.

3. Notwithstanding section 808.3, the issuance of a search warrant under this section may be based upon sworn oral testimony communicated by telephone if the magistrate who is asked to issue the warrant is satisfied that the circumstances make it reasonable to dispense with a written affidavit. The following shall then apply:

a. When a caller applies for the issuance of a warrant under this section and the magistrate becomes aware of the purpose of the call, the magistrate shall place under oath the person applying for the warrant.

b. The person applying for the warrant shall prepare a duplicate warrant and read the duplicate warrant, verbatim, to the magistrate who shall enter, verbatim, what is read to the magistrate on a form that will be considered the original warrant. The magistrate may direct that the warrant be modified.

c. The oral application testimony shall set forth facts and information tending to establish the existence of the grounds for the warrant and shall describe with a reasonable degree of specificity the person or persons whose operation of a motorboat or sailboat is believed to have been the proximate cause of the accident and from whom a specimen is to be withdrawn and the location where the withdrawal of the specimen or specimens is to take place.

d. If a voice recording device is available, the magistrate may record by means of that device all of the call after the magistrate becomes aware of the purpose of the call. Otherwise, the magistrate shall cause a stenographic or longhand memorandum to be made of the oral testimony of the person applying for the warrant.

e. If the magistrate is satisfied from the oral testimony that the grounds for the warrant exist or that there is probable cause to believe that they exist, the magistrate shall order the issuance of the warrant by directing the person applying for the warrant to sign the magistrate's name on the duplicate warrant. The magistrate shall immediately sign the original warrant and enter on its face the exact time when the issuance was ordered.

f. The person who executes the warrant shall enter the time of execution on the face of the duplicate warrant.

g. The magistrate shall cause any record of the call made by means of a voice recording device to be transcribed, shall certify the accuracy of the transcript, and shall file the transcript and the original record with the clerk. If a stenographic or longhand memorandum was made of the oral testimony of the person who applied for the warrant, the magistrate shall file a signed copy with the clerk.

h. The clerk of court shall maintain the original and duplicate warrants along with the record of the telephone call and any transcript or memorandum made of the call in a confidential file until a charge, if any, is filed.

4. a. Search warrants issued under this section shall authorize and direct peace officers to secure the withdrawal of blood specimens by medical personnel under section 462A.14A. Reasonable care shall be exercised to ensure the health and safety of the persons from whom specimens are withdrawn in execution of the warrants.

b. If a person from whom a specimen is to be withdrawn objects to the withdrawal of blood, the warrant may be executed as follows:

(1) If the person is capable of giving a specimen of breath, and a direct breath testing instrument is readily available, the warrant may be executed by the withdrawal of a specimen of breath for chemical testing, unless the peace officer has reasonable grounds to believe that the person was under the influence of a controlled substance, a drug other than alcohol, or a combination of alcohol and another drug.

(2) If the testimony in support of the warrant sets forth facts and information that the peace officer has reasonable grounds to believe that the person was under the influence of a controlled substance, a drug other than alcohol, or a combination of alcohol and another drug, a urine sample shall be collected in lieu of a blood sample, if the person is capable of giving a urine sample and the sample can be collected without the need to physically compel the execution of the warrant.

5. The act of any person knowingly resisting or obstructing the withdrawal of a specimen pursuant to a search warrant issued under section 462A.14D constitutes contempt punishable as provided in that section and further constitutes a refusal to submit. Also, if the withdrawal of a specimen is so resisted or obstructed, section 462A.14A applies.

6. Nonsubstantive variances between the contents of the original and duplicate warrants shall not cause a warrant issued under subsection 3 to be considered invalid.

7. Specimens obtained pursuant to warrants issued under this section are not subject to disposition under section 808.9 or chapter 809 or 809A.

8. Subsections 3 to 7 of this section do not apply where a test may be administered under section 462A.14A, subsection 4, paragraph "f".

9. Medical personnel who use reasonable care and accepted medical practices in withdrawing blood specimens are immune from liability for their actions in complying with requests made of them pursuant to search warrants or pursuant to section 462A.14A.

Sec. 7. NEW SECTION. 462A.14E VIOLATIONS OF ORDERS NOT TO OPERATE A MOTORBOAT OR SAILBOAT.

1. A person who operates a motorboat or sailboat after the person has been ordered, pursuant to section 462A.14 or 462A.14B not to operate a motorboat or sailboat, commits a serious misdemeanor, punishable with a jail term and a mandatory fine of one thousand dollars.

2. In addition to the jail term and fine, the court shall extend the period of prohibition of operating a motorboat or sailboat for an additional like period.

Sec. 8. NEW SECTION. 462A.14F DEPARTMENT RECORDKEEPING.

The department shall collect and maintain statistics on the number of arrests and convictions for violations of section 462A.14 that occur each year.

Sec. 9. Section 462A.23, subsection 2, paragraph b, Code 1999, is amended by striking the paragraph and inserting in lieu thereof the following:

b. Operating a motorboat or sailboat while intoxicated, or manipulating water skis, a surfboard, or a similar device while in an intoxicated condition or under the influence of a narcotic drug.

Sec. 10. Section 811.1, subsections 1 and 2, Code Supplement 1999, are amended to read as follows:

1. A defendant awaiting judgment of conviction and sentencing following either a plea or verdict of guilty of a class "A" felony, murder, any class "B" felony included in section 462A.14 or 707.6A; felonious assault; felonious child endangerment; sexual abuse in the second degree; sexual abuse in the third degree; kidnapping; robbery in the first degree; arson in the first degree; burglary in the first degree; any felony included in section 124.401, subsection 1, paragraph "a" or "b"; or a second or subsequent offense under section 124.401, subsection 1, paragraph "c"; or any felony punishable under section 902.9, subsection 1.

2. A defendant appealing a conviction of a class "A" felony; murder; any class "B" or "C" felony included in section 462A.14 or 707.6A; felonious assault; felonious child endangerment; sexual abuse in the second degree; sexual abuse in the third degree; kidnapping;

robbery in the first degree; arson in the first degree; burglary in the first degree; any felony included in section 124.401, subsection 1, paragraph "a" or "b"; or a second or subsequent conviction under section 124.401, subsection 1, paragraph "c"; or any felony punishable under section 902.9, subsection 1.

Sec. 11. Section 907.3, subsection 1, Code Supplement 1999, is amended by adding the following new paragraph:

NEW PARAGRAPH. l. The offense is a violation of section 462A.14, and a mandatory minimum sentence must be served or mandatory minimum fine must be paid by the defendant.

Sec. 12. Section 907.3, subsection 2, Code Supplement 1999, is amended by adding the following new paragraph:

NEW PARAGRAPH. f. The offense is a violation of section 462A.14, and a mandatory minimum sentence must be served or mandatory minimum fine must be paid by the defendant.

Sec. 13. Section 907.3, subsection 3, Code Supplement 1999, is amended by adding the following new paragraph:

NEW PARAGRAPH. f. A mandatory minimum sentence or fine imposed for a violation of section 462A.14.

Sec. 14. IMPLEMENTATION OF ACT. Section 25B.2, subsection 3, shall not apply to this Act.

Approved April 14, 2000

CHAPTER 1100

FROZEN FOOD LOCKER PLANT REGULATION

H.F. 2394

AN ACT to eliminate the regulation of frozen food locker plants by the department of agriculture and land stewardship.

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

Section 1. Section 172A.6, unnumbered paragraph 1, Code 1999, is amended to read as follows:

The license and financial responsibility provisions of this chapter ~~shall~~ do not apply to ~~any~~ a person who is licensed as provided in chapter 137F ~~or 172 and~~ who purchases livestock for slaughter valued at less than an average daily value of two thousand five hundred dollars during any period of the preceding twelve months ~~or such part thereof as the person was purchasing livestock~~. ~~Said licensees are made subject to this~~ A person licensed under that chapter ~~as to the~~ is subject to other provisions of this chapter, including the regulatory and penal provisions ~~hereof~~ of this chapter. ~~All other provisions of this chapter shall apply to said dealers or brokers.~~

Sec. 2. Chapter 172, Code 1999, is repealed.

Approved April 14, 2000

CHAPTER 1101

BROWNFIELD REDEVELOPMENT PROGRAM

H.F. 2423

AN ACT creating a brownfield redevelopment program and fund and a brownfield redevelopment advisory council.

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

Section 1. NEW SECTION. 15.291 DEFINITIONS.

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

1. "Brownfield site" means an abandoned, idled, or underutilized industrial or commercial facility where expansion or redevelopment is complicated by real or perceived environmental contamination. A brownfield site includes property contiguous with the property on which the individual or commercial facility is located. A brownfield site shall not include property which has been placed or is proposed to be included on the national priorities list established pursuant to the federal Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. § 9601 et seq.

2. "Sponsorship" means an agreement between a city or county and an applicant for assistance under the brownfield redevelopment program where the city or county agrees to offer assistance or guidance to the applicant.

Sec. 2. NEW SECTION. 15.292 BROWNFIELD REDEVELOPMENT PROGRAM.

1. The department shall establish and administer a brownfield redevelopment program for purposes of providing financial and technical assistance for the acquisition, remediation, or redevelopment of brownfield sites. Financial assistance under the program shall be provided from the brownfield redevelopment fund created in section 15.293. Technical assistance under the program shall be in the form of providing an applicant with assistance in identifying other alternative forms of assistance for which the applicant may be eligible.

2. A person owning a site may apply for assistance under the program if the site for which assistance is sought meets the definition of a brownfield site and the applicant has secured sponsorship prior to applying. Sponsorship is not required if the applicant is a city or county.

3. a. A person who is not an owner of a site may apply for financial assistance under the program if the site for which financial assistance is sought meets the definition of a brownfield site and the applicant has secured sponsorship prior to applying. Sponsorship is not required if the applicant is a city or county.

b. Prior to applying for financial assistance under this subsection, an applicant shall enter into an agreement with the owner of the brownfield site for which financial assistance is sought. The agreement shall be submitted with an application for financial assistance and shall include, at a minimum, the following:

(1) An agreement regarding the estimated total cost for remediating the brownfield site.

(2) An agreement that the owner shall transfer title of the property to the applicant upon completion of the remediation of the property.

(3) An agreement that, upon the subsequent sale of the property by the applicant to a person other than the original owner, the original owner shall receive not more than seventy-five percent of the estimated total cost of remediation.

c. An applicant shall not receive financial assistance of more than twenty-five percent of the agreed upon estimated total cost of remediation.

d. Upon the subsequent sale of the property by the applicant to a person other than the original owner, the applicant shall repay the department for financial assistance received by the applicant. The repayment shall be in an amount equal to the sales price less the amount paid to the original owner pursuant to the agreement between the applicant and the original owner. The repayment amount shall not exceed the amount of financial assistance received by the applicant.

4. An application for assistance under the program shall include any information required by the department including, but not limited to, all of the following:

a. A business plan which includes a remediation plan.

b. A budget for remediating or redeveloping the site.

c. A statement of purpose describing the intended use of and proposed repayment schedule for any financial assistance received by the applicant.

d. Evidence of sponsorship.

5. In reviewing an application for financial assistance, the department and the brownfield redevelopment advisory council established in section 15.294 shall consider all of the following:

a. Whether the brownfield site meets the definition of a brownfield site.

b. Whether other alternative forms of assistance exist for which the applicant may be eligible.

6. The board may approve, deny, or defer each application for financial assistance from the brownfield redevelopment fund created in section 15.293.

Sec. 3. NEW SECTION. 15.293 BROWNFIELD REDEVELOPMENT FUND.

1. A brownfield redevelopment fund is created in the state treasury under the control of the department and consisting of any moneys appropriated by the general assembly and any other moneys available to and obtained or accepted by the department for placement in the fund.

2. Payments of interest, repayments of moneys loaned pursuant to this part, and recaptures of loans shall be deposited in the fund.

3. The fund shall be used to provide grants, loans, forgivable loans, loan guarantees, and other forms of assistance under the brownfield redevelopment program established in section 15.292.

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

Sec. 4. NEW SECTION. 15.294 BROWNFIELD REDEVELOPMENT ADVISORY COUNCIL.

1. The department shall establish a brownfield redevelopment advisory council consisting of five members. The advisory council shall be composed of all of the following:

a. The director of the department of economic development, or the director's designee.

b. The director of the department of natural resources, or the director's designee.

c. The director of transportation, or the director's designee.

d. One person selected by the board of directors of the Iowa league of cities.

e. One member of the Iowa economic development board selected by the board.

2. The director of the department of economic development, or the director's designee, shall serve as the chairperson of the advisory council.

3. The advisory council shall review each application received by the department of economic development for assistance under the brownfield redevelopment program and make recommendations to the department regarding all of the following:

a. The completeness of the application.

b. Suggestions for alternative forms of assistance for which the applicant may be eligible. The alternative forms of assistance may include assistance programs available through other departments.

c. Whether the applicant should receive financial assistance from the brownfield redevelopment fund created in section 15.293.

Sec. 5. NEW SECTION. 15.295 RULES.

The department, in consultation with the department of natural resources, shall adopt rules pursuant to chapter 17A as necessary to administer this part.

Sec. 6. RULES.

1. The state department of transportation shall amend existing administrative rules pursuant to chapter 17A for local development projects under the revitalize Iowa's sound economy fund to include a rating factor for remediation or redevelopment of a brownfield site.

2. The department of economic development shall amend existing administrative rules pursuant to chapter 17A for projects under the community economic betterment program to include a rating factor for remediation or redevelopment of a brownfield site.

Approved April 14, 2000

CHAPTER 1102

INTERNATIONAL RELATIONS

H.F. 2442

AN ACT relating to international relations including the creation of an international relations advisory council and the designation of legislative and executive branch protocol officers.

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

Section 1. NEW SECTION. 2D.1 INTERNATIONAL RELATIONS ADVISORY COUNCIL.

1. An international relations advisory council is created to provide coordination of state and local international relations activities, through both the public and private sectors, and to provide recommendations to the governor and to the general assembly relating to international relations activities.

2. The international relations advisory council shall consist of all of the following members:

a. The co-chairpersons of the international relations committee established by the legislative council, or their designees.

b. Two members of the senate who are members of the international relations committee of the legislative council, appointed by the majority leader of the senate, after consultation with the president of the senate, and the minority leader of the senate, and two members of the house of representatives who are members of the international relations committee of the legislative council, appointed by the speaker of the house, after consultation with the majority leader and the minority leader of the house of representatives.

c. The director of the department of economic development, or the director's designee.

d. The secretary of agriculture, or the secretary's designee.

e. The director of the department of general services, or the director's designee.

f. The director of the department of workforce development, or the director's designee.

g. The director of the department of cultural affairs, or the director's designee.

h. The director of the department of education, or the director's designee.

i. The director of the department of public health, or the director's designee.

j. Representatives of agriculture, private business and industry, international programs provided through universities and colleges located in this state, Iowa sister states, the refugee services center of the department of human services, and others, selected by the legislative council, based upon recommendations made by the international relations committee of the legislative council.

3. The co-chairpersons of the international relations committee of the legislative council shall serve as co-chairpersons of the advisory council.

4. The executive branch protocol officer and the legislative branch protocol officer shall act in a consultative capacity to the advisory council. The legislative branch protocol officer shall provide staff support to the advisory council.

5. The advisory council shall do all of the following:

a. Create a statewide network to coordinate international relations activities involving the executive and legislative branches, business and industry, public and private educational institutions, and other entities involved in promoting international relations. The network shall include provision of information to the public via electronic access utilizing the most advanced and cost-effective and efficient technology.

b. Coordinate existing resources, provided through state agencies and other entities with international relations expertise, to facilitate international relations activities. Resources shall be utilized in a manner which is most appropriate to the type of international relations activity involved.

c. Provide continuity, over time, at the state level in the development and enhancement of partnerships with international colleagues.

d. Develop a comprehensive, state international relations policy and define the state's role in the international relations arena.

e. Coordinate efforts with the executive branch and legislative branch protocol officers.

f. Sponsor an annual state summit on international relations capacity to promote international relations activities in a variety of arenas including but not limited to international market development and civic, cultural, and educational opportunities. The summit should incorporate input from city, county, and state entities from both the public and private sectors.

g. Inform and educate the public, workforce, students, businesses, and state policymakers regarding the importance of international involvement in both economic and noneconomic international relations activities.

h. Compile reference materials and a listing of resources to be available to policymakers and the public in preparing for international relations activities and travel. The compiled materials and listing of resources shall be provided via electronic access utilizing the most advanced and cost-effective and efficient technology.

Sec. 2. NEW SECTION. 2D.2 INTERNATIONAL RELATIONS COMMITTEE — PROTOCOL.

1. The international relations committee of the legislative council shall establish and utilize protocol for visitors to the capitol, who may include state, national, or international visitors. The protocol established shall include provisions relating to transportation of visitors to and from the capitol, the designation of an official point of entry and a receiving area for visitors, security provisions, official introduction of visitors to the general assembly while the general assembly is in session, the provision of gifts to visitors, and other provisions appropriate to the visitor's position.

2. The international relations committee shall work with the executive branch protocol officer and with the legislative branch protocol officer in developing the protocol and in coordinating the visits of state, national, and international visitors to the capitol.

Sec. 3. NEW SECTION. 2D.3 LEGISLATIVE BRANCH PROTOCOL OFFICER.

The legislative service bureau shall employ a legislative branch protocol officer to coordinate activities related to state, national, and international visitors to the state capitol or with an interest in the general assembly, and related to travel of members of the general assembly abroad. The protocol officer shall serve in a consultative capacity and shall provide staff support to the international[1] advisory council. The protocol officer shall also work with the executive branch protocol officer to coordinate state, national, and international relations activities. The legislative branch protocol officer shall submit periodic reports to the international relations committee of the legislative council regarding the visits of state, national, and international visitors and regarding international activities.

Sec. 4. NEW SECTION. 2D.4 EXECUTIVE BRANCH PROTOCOL OFFICER.

The lieutenant governor, or the lieutenant governor's designee, shall be the executive branch protocol officer. The protocol officer shall serve in a consultative capacity to the international relations advisory council. The protocol officer shall work with the interna-

[1] See chapter 1232, §41 herein

tional relations committee of the legislative council and the legislative branch protocol officer in developing and implementing protocol for state, national, and international visitors to the state capitol and in improving coordination between the legislative and executive branches in international relations activities.

Approved April 14, 2000

CHAPTER 1103

WORLD WAR II VICTIM PROPERTY REPARATIONS

H.F. 2542

AN ACT relating to distributions made to and income from missing property of certain persecuted victims of World War II and their heirs, including effective and retroactive applicability dates.

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

Section 1. NEW SECTION. 217.39 PERSECUTED VICTIMS OF WORLD WAR II AND THEIR HEIRS.

Notwithstanding any other law of this state, payments paid to and income from lost property of a victim of persecution for racial, ethnic, or religious reasons by Nazi Germany or any other Axis regime or as an heir of such victim which is exempt from state income tax as provided in section 422.7, subsection 35, shall not be considered as income or an asset for determining the eligibility for state or local government benefit or entitlement programs. The proceeds are not subject to recoupment for the receipt of governmental benefits or entitlements and liens, except liens for child support, are not enforceable against these sums for any reason.

Sec. 2. Section 422.7, Code 1999, is amended by adding the following new subsection:

NEW SUBSECTION. 35. Subtract, to the extent included, the following:

a. Payments made to the taxpayer because of his or her status as a victim of persecution for racial, ethnic, or religious reasons by Nazi Germany or any other Axis regime or as an heir of such victim.

b. Items of income attributable to, derived from, or in any way related to assets stolen from, hidden from, or otherwise lost to a victim of persecution for racial, ethnic, or religious reasons by Nazi Germany or any other Axis regime immediately prior to, during, and immediately after World War II, including, but not limited to, interest on the proceeds receivable as insurance under policies issued to a victim of persecution for racial, ethnic, or religious reasons by Nazi Germany or any other Axis regime by European insurance companies immediately prior to and during World War II. However, income from assets acquired with such assets or with the proceeds from the sale of such assets shall not be subtracted. This paragraph shall only apply to a taxpayer who was the first recipient of such assets after recovery of the assets and who is a victim of persecution for racial, ethnic, or religious reasons by Nazi Germany or any other Axis regime or is an heir of such victim.

Sec. 3. EFFECTIVE AND APPLICABILITY DATE. This Act, being deemed of immediate importance, takes effect upon enactment. Section 2 of this Act applies retroactively to January 1, 2000, for tax years beginning on or after that date.

Approved April 14, 2000

CHAPTER 1104

IMPORT OF CIGARETTES AND TOBACCO PRODUCTS — LIMITATIONS

S.F. 2079

AN ACT relating to the prohibition of shipping or importing into the state, or the offering for sale, selling, transporting, distributing, or possessing within the state, of cigarettes and tobacco products which were previously exported from or which are manufactured for use outside the United States, making penalties applicable, and providing an effective date.

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

Section 1. Section 453A.36, Code 1999, is amended by adding the following new subsection:
NEW SUBSECTION. 8. It is unlawful for a person to ship or import into the state, or to offer for sale, sell, distribute, transport, or possess within this state, cigarettes or tobacco products previously exported from or manufactured for use outside the United States.

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

Approved April 17, 2000

CHAPTER 1105

PURCHASE, POSSESSION, AND SALE OF CIGARETTES AND TOBACCO PRODUCTS

S.F. 2366

AN ACT relating to the purchase, possession, and sale of cigarettes and tobacco products and providing penalties.

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

Section 1. NEW SECTION. 321.216C USE OF DRIVER'S LICENSE OR NONOPERATOR'S IDENTIFICATION CARD BY UNDERAGE PERSON TO OBTAIN CIGARETTES OR TOBACCO PRODUCTS.

A person who is under the age of eighteen, who alters or displays or has in the person's possession a fictitious or fraudulently altered driver's license or nonoperator's identification card and who uses the license or card to violate or attempt to violate section 453A.2, subsection 2, commits a simple misdemeanor punishable by a fine of one hundred dollars. The court shall forward a copy of the conviction to the department.

Sec. 2. Section 453A.2, Code 1999, is amended by adding the following new subsections:
NEW SUBSECTION. 2A. Possession of cigarettes or tobacco products by an individual under eighteen years of age does not constitute a violation under this section if the individual under eighteen years of age possesses the cigarettes or tobacco products as part of the individual's employment and the individual is employed by a person who holds a valid permit under this chapter or who lawfully offers for sale or sells cigarettes or tobacco products.
NEW SUBSECTION. 5. A person shall not be guilty of a violation of this section if conduct that would otherwise constitute a violation is performed to assess compliance with cigarette and tobacco products laws if any of the following applies:

a. The compliance effort is conducted by or under the supervision of law enforcement officers.

b. The compliance effort is conducted with the advance knowledge of law enforcement officers and reasonable measures are adopted by those conducting the effort to ensure that use of cigarettes or tobacco products by individuals under eighteen years of age does not result from participation by any individual under eighteen years of age in the compliance effort.

For the purposes of this subsection, "law enforcement officer" means a peace officer as defined in section 801.4 and includes persons designated under subsection 3 to enforce this section.

Sec. 3. Section 453A.3, Code 1999, is amended to read as follows:

453A.3 PENALTY.

1. a. A person, other than a retailer, who violates section 453A.2, subsection 1, ~~or section 453A.39~~ is guilty of a simple misdemeanor.

b. An employee of a retailer who violates section 453A.2, subsection 1, commits a simple misdemeanor punishable as a scheduled violation under section 805.8, subsection 11.

c. A person who violates section 453A.39, is guilty of a simple misdemeanor.

2. A person who violates section 453A.2, subsection 2, ~~shall pay a~~ is subject to the following, as applicable:

a. A civil penalty pursuant to section 805.8, subsection 11. ~~Failure to pay the civil penalty imposed for a violation of section 453A.2, subsection 2, is a simple misdemeanor punishable as a scheduled violation under section 805.8, subsection 11.~~ Notwithstanding section 602.8106 or any other provision to the contrary, any civil penalty ~~or criminal fine~~ paid under this subsection shall be retained by the city or county enforcing the violation ~~to be used for enforcement of section 453A.2~~.

b. For a first offense, performance of eight hours of community work requirements, unless waived by the court.

c. For a second offense, performance of twelve hours of community work requirements.

d. For a third or subsequent offense, performance of sixteen hours of community work requirements.

Sec. 4. NEW SECTION. 453A.4 SEIZURE OF FALSE OR ALTERED DRIVER'S LICENSE OR NONOPERATOR'S IDENTIFICATION CARD.

1. If a person holding a permit under this chapter or an employee of such a permittee has a reasonable belief based on factual evidence that a driver's license as defined in section 321.1, subsection 20A, or nonoperator's identification card issued pursuant to section 321.190 offered by a person who wishes to purchase cigarettes or tobacco products is altered or falsified or belongs to another person, the permittee or employee may retain the driver's license or nonoperator's identification card. Within twenty-four hours, the card shall be delivered to the appropriate city or county law enforcement agency of the jurisdiction in which the permittee's premises is located, and the permittee shall file a written report of the circumstances under which the card was retained. The local law enforcement agency may investigate whether a violation of section 321.216, 321.216A, or 321.216C has occurred. If an investigation is not initiated or probable cause is not established by the local law enforcement agency, the driver's license or nonoperator's identification card shall be delivered to the person to whom it was issued. The local law enforcement agency may forward the card with the report to the state department of transportation for investigation, in which case, the state department of transportation may investigate whether a violation of section 321.216, 321.216A, or 321.216C has occurred. The state department of transportation shall return the card to the person to whom it was issued if an investigation is not initiated or probable cause is not established.

2. Upon taking possession of an identification card as provided in subsection 1, a receipt for the card with the date and hour of seizure noted shall be provided to the person from whom the card is seized.

3. A person holding a permit under this chapter or an employee of such a permittee is not subject to criminal prosecution for, or to civil liability for damages alleged to have resulted from, the retention and delivery of a driver's license or a nonoperator's identification card which is taken pursuant to subsections 1 and 2. This section shall not be construed to relieve a permittee or an employee of such a permittee from civil liability for damages resulting from the use of unreasonable force in obtaining the alleged altered or falsified driver's license or identification card or the driver's license or identification card believed to belong to another person.

Sec. 5. Section 453A.13, subsection 2, Code 1999, is amended by adding the following new paragraph:

NEW PARAGRAPH. c. The department, or a city or county, shall submit a duplicate of any application for a retail permit and any retail permit issued by the entity under this subsection to the Iowa department of public health within thirty days of the issuance.

Sec. 6. Section 453A.22, subsection 2, Code 1999, is amended to read as follows:

2. If a retailer or employee of a retailer has violated section 453A.2, 453A.36, subsection 6, or 453A.39, the department or local authority, in addition to the other penalties fixed for such violations in this section, shall assess a penalty upon the same hearing and notice as prescribed in subsection 1 as follows:

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

b. For a second violation within a period of two years, the ~~violator's~~ retailer's permit shall be suspended for a period of thirty days.

c. For a third violation within a period of ~~five~~ three years, the ~~violator's~~ retailer's permit shall be suspended for a period of sixty days.

d. For a fourth violation within a period of ~~five~~ three years, the ~~violator's~~ retailer's permit shall be revoked.

Sec. 7. Section 453A.22, Code 1999, is amended by adding the following new subsections:

NEW SUBSECTION. 4. Notwithstanding subsection 3, if a retail permit is suspended or revoked under this section, the suspension or revocation shall only apply to the place of business at which the violation occurred and shall not apply to any other place of business to which the retail permit applies but at which the violation did not occur.

NEW SUBSECTION. 5. The department or local authority shall report the suspension or revocation of a retail permit under this section to the Iowa department of public health within thirty days of the suspension or revocation of the retail permit.

Sec. 8. Section 602.6405, Code 1999, is amended by adding the following new subsection:

NEW SUBSECTION. 1A. a. Magistrates shall hear and determine violations of and penalties for violations of section 453A.2, subsection 2.

b. Magistrates shall forward copies of citations issued for violations of section 453A.2, subsection 2, and of their dispositions to the clerk of the district court. The clerk of the district court shall maintain records of citations issued and the dispositions of citations, and shall forward a copy of the records to the Iowa department of public health.

Sec. 9. Section 805.6, Code 1999, is amended by adding the following new subsection:

NEW SUBSECTION. 2A. The uniform citation and complaint shall contain a place for citing a person in violation of section 453A.2, subsection 2.

Sec. 10. Section 805.8, subsection 11, Code Supplement 1999, is amended by adding the following new paragraph after paragraph a, and relettering the subsequent paragraph:

NEW PARAGRAPH. aa. For violations of section 453A.2, subsection 1, by an employee of a retailer, the scheduled fine is as follows:

(1) If the violation is a first offense, the scheduled fine is one hundred dollars.
(2) If the violation is a second offense, the scheduled fine is two hundred fifty dollars.
(3) If the violation is a third or subsequent offense, the scheduled fine is five hundred dollars.

Sec. 11. Section 805.8, subsection 11, paragraph b, Code Supplement 1999, is amended to read as follows:

b. ~~(1)~~ For violations of section 453A.2, subsection 2, the scheduled fine is as follows and is a civil penalty, and the criminal penalty surcharge under section 911.2 shall not be added to the penalty, and the court costs pursuant to section 805.9, subsection 6, shall not be imposed:

~~(a)~~ (1) If the violation is a first offense, the scheduled fine is ~~twenty-five~~ fifty dollars.

~~(b)~~ (2) If the violation is a second offense, the scheduled fine is ~~fifty~~ one hundred dollars.

~~(c)~~ (3) If the violation is a third or subsequent offense, the scheduled fine is ~~one~~ two hundred fifty dollars.

~~(2) For failing to pay the civil penalty under section 453A.2, subsection 2, the scheduled criminal fine is twenty-five dollars if the violation is a first offense, fifty dollars if the violation is a second offense, and one hundred dollars if the violation is a third or subsequent offense. Failure to pay the scheduled criminal fine shall not result in the person being detained in a secure facility. The complainant shall not be charged a filing fee.~~

Approved April 17, 2000

CHAPTER 1106

VETERANS PREFERENCE — PUBLIC EMPLOYMENT

H.F. 2376

AN ACT relating to veterans preference in public employment.

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

Section 1. Section 35C.3, Code Supplement 1999, is amended to read as follows:

35C.3 DUTY TO INVESTIGATE AND APPOINT.

When any preferred person applies for appointment or employment under this chapter, the officer, board, or person whose duty it is or may be to appoint or employ a person to fill the position or place shall, before appointing or employing a person to fill the position or place, make an investigation as to the qualifications of the applicant for the place or position, and if the applicant is of good moral character and can perform the duties of the position applied for, the officer, board, or person shall appoint the applicant to the position, place, or employment. The appointing officer, board, or person shall set forth in writing and file for public inspection the specific grounds upon which it appointed or refused to appoint the person. ~~Within ten days after an appointment is refused, the appointing officer, board, or person shall notify the unsuccessful applicant in writing of the~~ At the time of application or at an interview for the position, an applicant may request notification of refusal only or notification of refusal and the specific grounds for refusal. The notification shall be sent within ten days after the successful applicant is selected.

Approved April 17, 2000

CHAPTER 1107

CONFINEMENT SITE MANURE APPLICATOR CERTIFICATION

H.F. 2393

AN ACT relating to the certification of persons as confinement site manure applicators, providing for fees, and making penalties applicable.

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

Section 1. Section 455B.203A, subsection 1, Code Supplement 1999, is amended by adding the following new paragraph:

NEW PARAGRAPH. d. "Family member" means a person related to another person as a spouse, parent, grandparent, child, grandchild, or sibling.

Sec. 2. Section 455B.203A, subsection 3, paragraph b, Code Supplement 1999, is amended to read as follows:

b. A person required to be certified as a confinement site manure applicator must be certified by the department every three years. ~~The~~ However, if the person is exempt from paying the certification fee because a family member has paid a certification fee as provided in this section, the person's certification shall expire on the same date that the paid family member's certification expires. A person shall be certified after completing an educational program which shall consist of an examination required to be passed by the person or two hours of continuing instructional courses which the person must attend each year in lieu of passing the examination.

Sec. 3. Section 455B.203A, subsection 5, paragraph b, subparagraph (1), Code Supplement 1999, is amended to read as follows:

(1) The person is a part-time employee or family member of a confinement site manure applicator.

Sec. 4. Section 455B.203A, subsection 6, paragraph a, Code Supplement 1999, is amended to read as follows:

a. The department may charge a fee for certifying ~~persons~~ a person under this section. The fee for certification shall be based on the costs of administering and enforcing this section and paying the expenses of the department relating to certification. A person who is certified as a confinement site manure applicator as provided in this section is exempt from paying the certification fee, if all of the following apply:

(1) The person is certified within one year from the date that a family member has been certified as a confinement site manure applicator.

(2) The family member has paid the fee for that family member's own certification.

Approved April 17, 2000

CHAPTER 1108

THEFT DETECTION AND DETECTION SHIELDING DEVICES

H.F. 2391

AN ACT establishing a criminal offense relating to theft detection shielding devices and theft detection devices and providing a penalty.

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

Section 1. NEW SECTION. 714.7B THEFT DETECTION DEVICES — SHIELD OR REMOVAL PROHIBITED.

1. A person shall not intentionally manufacture or attempt to manufacture, sell or attempt to sell, possess, use, distribute or attempt to distribute, a theft detection shielding device.

2. A person shall not remove or attempt to remove a theft detection device with the intent of committing a theft and without the permission of the merchant who is displaying or selling the goods, wares, or merchandise.

3. A person shall not possess any tool, instrument, or device with the intent to use it in the unlawful removal of a theft detection device.

4. For purposes of this section, "theft detection shielding device" means any laminated or coated bag or device designed to shield merchandise from detection by an electronic or magnetic theft alarm system or any other system designed to alert a person of a possible theft. "Theft detection device" means any electronic or other device attached to goods, wares, or merchandise on display or for sale by a merchant.

5. A person who violates subsection 1 or 3 commits a serious misdemeanor.

6. A person who violates subsection 2 commits the following:

a. A simple misdemeanor if the value of the goods, wares, or merchandise does not exceed two hundred dollars.

b. A serious misdemeanor if the value of the goods, wares, or merchandise exceeds two hundred dollars.

Approved April 18, 2000

CHAPTER 1109

STATE AGENCY PURCHASING PREFERENCE —
BIO-BASED FLUIDS, GREASES, AND LUBRICANTS

S.F. 2249

AN ACT relating to a state agency purchasing preference for bio-based hydraulic fluids, greases, and other industrial lubricants.

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

Section 1. Section 18.6, subsection 12, paragraph b, Code Supplement 1999, is amended to read as follows:

b. The procurement by state agencies of ~~biodegradable~~ bio-based hydraulic fluids, greases, and other industrial lubricants manufactured from soybeans in accordance with the requirements of section 18.22.

Sec. 2. Section 18.22, subsection 4, Code 1999, is amended to read as follows:

4. a. Provide that when purchasing hydraulic fluids, greases, and other industrial lubricants the department or a state agency authorized by the department to directly purchase hydraulic fluids, greases, and other industrial lubricants shall give preference to purchasing ~~biodegradable~~ bio-based hydraulic fluids, greases, and other industrial lubricants manufactured from soybeans.

~~b. The department or state agency purchasing the hydraulic fluid shall purchase biodegradable hydraulic fluid, if both of the following apply:~~

~~(1) The purchase is within the purchasing budget of the department or a state agency.~~

~~(2) The use of biodegradable hydraulic fluid in the equipment operated by the department or state agency is consistent with the manufacturer's specifications for the equipment.~~

~~c.~~ b. The department shall provide for the implementation of requirements necessary in order to carry out this subsection by the department or state agency making the purchase, which shall include all of the following:

(1) Including the preference requirements in publications used to solicit bids for hydraulic fluids, greases, and other industrial lubricants.

(2) Describing the preference requirements at bidders' conferences in which bids for the sale of hydraulic fluids, greases, and other industrial lubricants are sought by the department or authorized state agency.

(3) Discussing the preference requirements in procurement solicitations or invitations to bid for hydraulic fluids, greases, and other industrial lubricants.

(4) Informing industry trade associations about the preference requirements.

c. As used in this section, unless the context otherwise requires:

(1) "Bio-based hydraulic fluids, greases, and other industrial lubricants" means as defined by the United States department of agriculture, if the department has adopted such a definition. If the United States department of agriculture has not adopted a definition, "bio-based hydraulic fluids, greases, and other industrial lubricants" means hydraulic fluids, greases, and other lubricants containing a minimum of fifty-one percent soybean oil.

(2) "Other industrial lubricants" means lubricants used or applied to machinery.

Sec. 3. Section 216B.3, subsection 17, Code Supplement 1999, is amended to read as follows:

17. Comply with the requirements for the purchase of lubricating oils, industrial oils, greases, and hydraulic fluids as established pursuant to section 18.22.

Sec. 4. Section 260C.19B, Code 1999, is amended to read as follows:

260C.19B PURCHASE OF ~~BIODEGRADABLE~~ BIO-BASED HYDRAULIC FLUIDS, GREASES, AND OTHER INDUSTRIAL LUBRICANTS.

Hydraulic fluids, greases, and other industrial lubricants purchased by or used under the direction of the board of directors to provide services to a merged area shall be purchased in compliance with the preference requirements for purchasing ~~biodegradable~~ bio-based hydraulic fluids, greases, and other industrial lubricants as provided pursuant to section 18.22.

Sec. 5. Section 262.25B, Code 1999, is amended to read as follows:

262.25B PURCHASE OF ~~BIODEGRADABLE~~ BIO-BASED HYDRAULIC FLUIDS, GREASES, AND OTHER INDUSTRIAL LUBRICANTS.

The state board of regents and institutions under the control of the board purchasing hydraulic fluids, greases, and other industrial lubricants shall give preference to purchasing ~~biodegradable~~ bio-based hydraulic fluids, greases, and other industrial lubricants as provided in section 18.22.

Sec. 6. Section 307.21, subsection 4, paragraph b, subparagraph (4), Code Supplement 1999, is amended to read as follows:

(4) Comply with the requirements for the purchase of lubricating oils, industrial oils, greases, and hydraulic fluids as established pursuant to section 18.22.

Sec. 7. Section 904.312B, Code 1999, is amended to read as follows:

904.312B PURCHASE OF ~~BIODEGRADABLE~~ BIO-BASED HYDRAULIC FLUIDS, GREASES, AND OTHER INDUSTRIAL LUBRICANTS.

The department when purchasing hydraulic fluids, greases, and other industrial lubricants shall give preference to purchasing ~~biodegradable~~ bio-based hydraulic fluids, greases, and other industrial lubricants as provided in section 18.22.

Approved April 19, 2000

CHAPTER 1110

PSEUDORABIES CONTROL

S.F. 2312

AN ACT relating to pseudorabies control, making penalties applicable, for implementation, and providing an effective date.

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

Section 1. Section 166D.2, Code 1999, is amended by adding the following new subsections:

NEW SUBSECTION. 7A. "Cleanup plan" means a herd cleanup plan or feeder pig cooperator herd cleanup plan as provided in section 166D.8.

NEW SUBSECTION. 8A. "Cull swine" means mature swine fed for purposes of direct slaughter. However, "cull swine" does not include swine kept for purposes of breeding or reproduction.

NEW SUBSECTION. 19A. "Fixed concentration point" means a concentration point which is a permanent location where swine are assembled for purposes of sale and movement to a slaughtering establishment as provided in section 166D.12.

NEW SUBSECTION. 26A. "Isowean feeder pig" means a feeder pig that weighs twenty pounds or less.

NEW SUBSECTION. 44A. "Stage II county" means a county designated by the department as in stage II of the national pseudorabies eradication program.

Sec. 2. Section 166D.2, subsections 2, 11, 17, 19, 38, and 42, Code 1999, are amended to read as follows:

2. "Approved premises" means a dry lot facility located in an area with confirmed cases of pseudorabies infection, which is ~~authorized~~ certified by the department to receive, ~~hold, or~~ and feed and move or relocate infected swine~~, exposed animals, or swine of unknown status~~ as provided in section 166D.10B. ~~The premises and all swine on the premises shall be considered under quarantine. However, swine may be moved to slaughter under a transportation certificate or may be moved to another pseudorabies approved premises under a certificate of inspection.~~

11. "Differentiable vaccine" means a vaccine which has a licensed companion differentiable test, and includes a modified-live differentiable vaccine.

17. "Feeder pig" means an immature swine fed for purposes of direct slaughter which ~~is~~ weighs one hundred pounds or less ~~than slaughter weight~~.

19. "Feeder swine" means ~~a porcine animal~~ swine fed for purposes of direct slaughter, including feeder pigs~~,~~ and cull ~~sows, and boars~~ swine. However, "feeder swine" does not include ~~animals~~ swine kept for purposes of breeding or reproduction.

38. "Quarantined herd" means a herd in which pseudorabies infected or exposed swine are bred, reared, or fed under the supervision and control of the department, as provided in section 166D.9. ~~Swine in a quarantined herd may be moved only to an approved premises for feeding or to a recognized slaughtering establishment for slaughter. Either movement may be completed through a concentration point in compliance with section 166D.12.~~

42. "Restricted movement" means swine which are ~~quarantined until directly moved to slaughter~~ moved or relocated as provided in section 166D.10A.

Sec. 3. Section 166D.2, subsections 4, 5, and 34, Code 1999, are amended by striking the subsections.

Sec. 4. Section 166D.2, subsection 32, paragraph c, Code 1999, is amended by striking the paragraph.

Sec. 5. Section 166D.3, unnumbered paragraph 1, Code 1999, is amended to read as follows:

A state pseudorabies advisory committee is established. The committee shall consist of not more than seven members who shall be appointed by the Iowa pork producers association. At least four members of the committee must be actively engaged in swine production. The members shall serve staggered terms of two years, except that the initial board members shall serve unequal terms. A person appointed to fill a vacancy for a member shall serve only for the unexpired portion of the term. A member is eligible for reappointment for three successive terms. A majority of the board constitutes a quorum and an affirmative vote of the majority of members is necessary for substantive action taken by the board. 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 board. The advisory committee shall:

Sec. 6. Section 166D.3, subsection 1, Code 1999, is amended by striking the subsection.

Sec. 7. Section 166D.7, subsection 1, paragraph a, Code 1999, is amended to read as follows:

a. The herd shall be certified when all breeding swine have reacted negatively to a test. The herd must have been free from infection for thirty days prior to testing. At least ninety percent of swine in the herd must have been on the premises as a part of the herd for at least sixty days prior to testing, or swine in the herd must have been moved or relocated directly from another qualified negative herd. To remain certified, the herd must be retested and recertified as provided by the department. The herd shall be recertified when each month the greater of five head of swine or at least ten percent of the herd's breeding swine react negatively to a test.

Sec. 8. Section 166D.7, subsection 2, Code 1999, is amended by striking the subsection.

Sec. 9. Section 166D.7, subsection 3, paragraphs a and b, Code 1999, are amended to read as follows:

a. The herd shall be certified when a statistical sampling of the herd is determined to be noninfected.

b. ~~To~~ In order to remain certified the herd must be retested and recertified as provided by the department. The herd must be recertified annually. The herd shall be recertified when a statistical sampling of the herd is determined to be noninfected within twelve months from initial certification or the most recent recertification.

A herd shall not be certified or recertified, if the herd is located within a county which is designated by the department as in stage II of the national pseudorabies eradication program, unless the herd is vaccinated with a modified-live differentiable vaccine pursuant to section 166D.11 and as required by the department.

Sec. 10. Section 166D.7, subsection 4, paragraph a, Code 1999, is amended to read as follows:

a. The herd shall be certified when one hundred percent of breeding swine have reacted negatively to a test. The herd must have been free from infection for thirty days prior to testing. At least ninety percent of swine in the herd must have been on the premises as a part of the herd for at least sixty days prior to testing, or swine in the herd must have been directly moved ~~directly~~ or relocated from a qualified negative herd or qualified differentiable negative herd. A differentiable vaccine must be administered at intervals in accordance with the package insert for that vaccine. To remain certified, the herd must be retested and recertified as provided by the department. The herd shall be recertified when ~~either of the following occurs:~~

~~(1) Each eighty to one hundred five~~ each thirty days at least twenty-five[1] percent of the herd's breeding swine react negatively to a test.

~~(2) Each month at least ten percent of the herd's breeding swine react negatively to a test.~~

Sec. 11. Section 166D.8, Code 1999, is amended to read as follows:

166D.8 INFECTED HERDS.

An infected herd ~~in a program area~~ which is not quarantined under section 166D.9, shall either adopt a herd cleanup plan, or a feeder pig cooperator herd cleanup plan~~, or shall be quarantined~~.

1. a. A herd cleanup plan ~~may include any or a combination of the following:~~

~~(1) The segregation of progeny with restricted movement. The herd cleanup plan must include the location of the premises that will receive the progeny. The receiving premises shall be quarantined.~~

~~(2) The test~~ shall apply to a herd, if feeder pigs are not moved from the herd. The plan shall provide for one of the following:

(1) The testing of all swine capable of being accurately diagnosed with pseudorabies and the removal of infected swine from the herd.

~~(3)~~ (2) Depopulation.

b. ~~Notwithstanding paragraph "a", breeding swine in an infected herd shall be tested and the infected breeding swine shall be removed from the infected herd in accordance with procedures and by dates established by rules adopted by the department.~~ A herd cleanup plan must be implemented as follows:

(1) If the plan provides for the testing and removal of swine, all breeding swine must be tested with a differentiable test and react negatively to the test within fifteen days after the herd is classified by the department as infected. All breeding swine reacting positively to the test must be removed as provided in this section. At least thirty days after removal of the breeding swine reacting positively, all remaining breeding swine must be tested and react negatively to the test. Subsequent testing and removal must be conducted as provided in this subparagraph until all breeding swine react negatively. When all breeding swine are tested and react negatively to the test, the department shall classify the herd as a noninfected herd.

(2) The herd cleanup plan may provide for the relocation of feeder pigs or cull swine. If the plan provides for the relocation of feeder pigs, the plan must provide for the segregation of feeder pigs and identify in writing the approved premises where feeder pigs or cull swine may be relocated upon approval by the department.

2. a. A feeder pig cooperator herd cleanup plan ~~may be adopted if~~ shall apply to a herd, if feeder pigs are moved from the herd. The plan shall include all the requirements for a herd cleanup plan. In order to be subject to a feeder pig cooperator herd cleanup plan all of the following conditions ~~are~~ must be satisfied:

~~a.~~ (1) There must have been no clinical signs of pseudorabies during the past thirty days.

~~b.~~ (2) The production operation must be capable of segregating offspring at weaning into facilities separate and apart from the remainder of the herd.

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[1] See chapter 1232, §24 herein

~~c.~~ b. ~~An approved feeder pig cooperator herd plan must be implemented.~~ The feeder pig cooperator herd cleanup plan ~~must include the location of~~ may provide for the movement or relocation of feeder pigs or cull swine. If the feeder pig cooperator herd cleanup plan provides for the movement or relocation of feeder pigs or cull swine, the plan must identify in writing the approved premises ~~that will receive the progeny~~ where the feeder pigs or cull swine may be moved or relocated as provided in section 166D.10B. ~~The receiving premises shall be quarantined.~~

~~3. Infected herds in a program area which have not adopted an official herd cleanup plan or feeder pig cooperator herd plan shall be quarantined.~~

~~4.~~ 3. Costs of ~~program~~ testing and vaccination ~~shall~~ may be paid as provided in section ~~166D.5~~ 166D.11.

4. ~~An infected herd outside a program area shall either adopt a herd cleanup plan or a feeder pig cooperator herd plan with restricted movement.~~ An infected herd not subject to ~~such~~ a cleanup plan shall be quarantined within ~~thirty~~ fifteen days of becoming a known infected herd ~~shall be quarantined~~. An infected herd which is not subject to a ~~herd~~ cleanup ~~plan or a feeder pig cooperator herd~~ plan is a quarantined herd.

5. Swine which is part of a herd subject to a cleanup plan shall only be moved or relocated as required pursuant to section 166D.10. If the location where the herd is kept is an approved premises as provided in section 166D.10B, the cleanup plan shall include terms and conditions for being certified as an approved premises.

Sec. 12. Section 166D.9, subsections 1 and 2, Code 1999, are amended by striking the subsections and inserting in lieu thereof the following:

1. Swine which is part of a quarantined herd shall only be moved by restricted movement in accordance with section 166D.10A.

Sec. 13. Section 166D.9, subsection 4, paragraphs c and d, Code 1999, are amended to read as follows:

c. The epidemiologist must either conduct two successive statistical samplings at least ninety days apart, or conduct statistical samplings according to rules adopted by the department which are consistent with the national pseudorabies eradication program, which reveal no infection within the new breeding swine.

d. The epidemiologist must either conduct two successive statistical samplings ninety days apart ~~of~~, or conduct statistical samplings according to rules adopted by the department which are consistent with the national pseudorabies eradication program, which reveal no infection in the herd's progeny at least four months of age ~~which reveal no infection~~.

Sec. 14. Section 166D.9, subsection 5, Code 1999, is amended by striking the subsection.

Sec. 15. Section 166D.10, subsection 1, paragraph b, Code 1999, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (4) The swine have a current negative pseudorabies status.

Sec. 16. Section 166D.10, subsections 3 through 6, Code 1999, are amended by striking the subsections and inserting in lieu thereof the following:

3. Swine from a herd located within this state must be moved or relocated in compliance with this section. If the swine is moved or relocated from a herd located within a county which is designated by the department as in stage II of the national pseudorabies eradication program, the swine shall not be moved or relocated unless in compliance with section 166D.11. Regardless of whether the swine is from a herd located in a stage II county, the following shall govern the movement or relocation of swine within this state:

a. For swine from a noninfected herd, a person shall not move swine for breeding purposes, unless one of the following applies:

(1) The swine is moved from a qualified negative herd or qualified differentiable negative herd.

(2) The swine reacts negatively to a differentiable test, within thirty days prior to moving the swine.

b. For swine which is exposed or swine from a herd of unknown status, a person shall not move or relocate the swine, unless one of the following applies:

(1) The swine reacts negatively to a differentiable test within thirty days prior to moving or relocating the swine.

(2) The swine moves by restricted movement to either a fixed concentration point or slaughtering establishment.

c. For swine which is from an infected herd, a person shall not move or relocate the swine, unless one of the following applies:

(1) If the swine is part of a cleanup plan, the following shall apply:

(a) For swine, other than feeder pigs or cull swine, which is part of a herd subject to a cleanup plan, a person shall only move swine by restricted movement to either a fixed concentration point or slaughtering establishment. A person shall not relocate the swine.

(b) For a feeder pig or cull swine which is part of a herd subject to a herd cleanup plan, a person shall only move the feeder pig or cull swine by restricted movement to either a fixed concentration point or slaughtering establishment or relocate the feeder pig or cull swine by restricted movement to an approved premises. For a feeder pig or cull swine which is part of a feeder pig cooperator herd cleanup plan, a person shall only move the feeder pig or cull swine by restricted movement to either a fixed concentration point or slaughtering establishment or move or relocate the feeder pig or cull swine by restricted movement to an approved premises. However, a person shall not move or relocate a feeder pig or cull swine to an approved premises, unless the approved premises is identified in a cleanup plan as provided in section 166D.8, or the department approves the move or relocation to another approved premises. A person shall not move or relocate a cull swine to an approved premises, unless the cull swine reacts negatively to a test and is vaccinated with a differentiable vaccine. The test and vaccine must be administered within thirty days prior to the movement or relocation to the approved premises. A noninfected feeder pig is not required to be tested or vaccinated prior to movement or relocation to an approved premises, if the feeder pig is vaccinated upon arrival at the approved premises.

(c) For swine from a herd kept on an approved premises, a person shall only move or relocate the swine by restricted movement as provided in the cleanup plan governing the herd and terms and conditions of the certification required for the approved premises as provided in section 166D.10B.

(2) If the swine is not part of a herd that is subject to a cleanup plan, because the herd is quarantined, a person shall only move the swine by restricted movement to either a fixed concentration point or slaughtering establishment.

4. Swine from a herd located outside this state must be moved into and maintained in this state in compliance with this section. A person shall not move swine into this state, except as follows:

a. For swine from a herd, other than a noninfected herd, the swine must be moved either to a fixed concentration point or slaughtering establishment.

b. For swine from a noninfected herd, the swine may be moved to a concentration point or slaughtering establishment. If the swine is not moved to a concentration point or slaughtering establishment, the following shall apply:

(1) Unless the person moves the swine into a county designated by the department as in stage II of the national pseudorabies eradication program, the following shall apply:

(a) A person shall not move swine into this state for breeding purposes, unless one of the following applies:

(i) The swine is moved from a qualified negative herd or qualified differentiable negative herd.

(ii) The swine reacts negatively to a differentiable test, within thirty days prior to moving the swine.

(b) A person shall not move feeder swine which is moved into this state, unless the feeder swine reacts negatively to a differentiable test within thirty days prior to movement from a herd in this state.

(2) If a person moves the swine into a county which is designated by the department as in stage II of the national pseudorabies eradication program, the following shall apply:

(a) Except as provided in this subparagraph, the owner of swine shall vaccinate the swine with a modified-live differentiable vaccine, prior to moving swine into the stage II county. A statistical sampling of the swine moved into a herd as provided in this subparagraph shall be tested using a differentiable test within thirty days after the swine is moved to a herd in this state. If a swine reacts positively to the test, the herd is an infected herd. A person is not required to vaccinate swine prior to moving swine into the stage II county or test the swine after the swine has been moved to a herd in the stage II county, if one of the following applies:

(i) The swine is part of a herd that cannot be vaccinated under the law of the state or country in which the herd is kept immediately prior to being moved into the stage II county.

(ii) The swine is an isowean feeder pig.

(iii) The swine is moved either to a fixed concentration point or slaughtering establishment.

(b) For swine, which is not vaccinated before being moved into a stage II county as provided in this paragraph, the following shall apply:

(i) For swine other than swine moved into a herd within a stage II county as an isowean feeder pig, a statistical sampling of the swine moved into the herd shall be tested using a differentiable test within forty-eight hours after the swine moves to a herd in this state. If a swine reacts positively to the test, the herd is an infected herd. If, according to the statistical sampling, the swine moved into the herd reacts negatively to the test, all moved swine must be immediately vaccinated with a differentiable vaccine, as provided in section 166D.11. The swine shall be considered as part of a herd of unknown status, until tested negative and vaccinated.

(ii) For swine moved into a herd within a stage II county as an isowean feeder pig, a statistical sampling of the swine moved into the herd shall be tested using a differentiable test when a majority of swine moved together into the herd as isowean feeder pigs reach a weight of more than twenty pounds. If a swine reacts positively to the test, the herd is an infected herd. If, according to the statistical sampling, the swine moved into the herd reacts negatively to the test, all swine moved into the herd must be immediately vaccinated with a differentiable vaccine, as provided in section 166D.11. The department may require that the swine be revaccinated with a differentiable vaccine at a later date. The swine shall be considered as part of a herd of unknown status, until tested negative and vaccinated.

5. A person shall not move swine within this state, other than to a fixed concentration point or slaughtering establishment, if the swine is vaccinated with a vaccine other than a differentiable vaccine approved by the department pursuant to section 166D.14.

6. Known infected swine moved through a fixed concentration point, other than a buying station of a slaughtering establishment, shall only be moved by restricted movement to a slaughtering establishment.

7. Swine moved under this section to a slaughtering establishment shall be for the exclusive purpose of slaughtering the swine. Swine moved under this section to a fixed concentration point shall be for the exclusive purpose of immediately moving the swine to a slaughtering establishment. Swine moved or relocated under this section to an approved premises shall be for the exclusive purpose of feeding the swine prior to movement or relocation to another approved premises, or movement to either a fixed concentration point or a slaughtering establishment.

Sec. 17. NEW SECTION. 166D.10A RESTRICTED MOVEMENT — REQUIREMENTS.

1. If swine must be moved or relocated by restricted movement as provided in section 166D.10, the swine shall only be transported by direct movement.

2. a. If a person moves or relocates swine subject to restricted movement, the person shall only move the swine to either a fixed concentration point or slaughtering establishment or move or relocate the swine to an approved premises.

b. If a person receives swine subject to restricted movement, the person shall only receive the swine at either a fixed concentration point or slaughtering establishment or an approved premises.

3. Swine required to be moved or relocated by restricted movement must be accompanied by a restricted movement permit, as provided by rules which must be adopted by the department. The department shall issue a restricted movement permit to the person moving or relocating the swine. The permit shall include information required by the department, which shall at least include a description of the swine, the name and address of the owner, the name and address of the person receiving the swine, the date of movement or relocation, and the seal number as prescribed by the department, if a seal is required. The moved or relocated swine must also be accompanied by a transportation certificate and certificate of inspection, if required in section 166D.10.

4. a. Except as provided in this section, a vehicle moving swine under restricted movement shall contain a cargo area for the swine which shall be sealed to prevent access. The seal shall conform with requirements adopted by the department. Each seal shall be identified by number as required by the department. The vehicle shall be sealed by an accredited veterinarian at the premises where the swine are kept. The seal shall only be removed by a departmental official, an accredited veterinarian, an official of the United States department of agriculture, or the person authorized by the department to receive the swine upon arrival at the fixed concentration point, slaughtering establishment, or approved premises.

b. The department may adopt rules or issue an order to provide that a vehicle moving or relocating feeder swine from a herd which is subject to a cleanup plan is not required to be sealed as otherwise provided in this subsection, if the herd is kept and moved or relocated in compliance with the cleanup plan.

Sec. 18. NEW SECTION. 166D.10B APPROVED PREMISES.

1. A person shall not maintain swine other than feeder swine or cull swine at an approved premises.

a. A person shall not move or relocate swine to an approved premises, unless all of the following apply:

(1) The swine is a feeder pig or cull swine.

(2) The swine is not exposed or from a herd of unknown status.

b. A person shall not receive swine at an approved premises, unless the swine is one of the following:

(1) The swine is a feeder pig or cull swine.

(2) The swine is not exposed or from a herd of unknown status.

2. If swine is moved or relocated to an approved premises, the following shall apply:

a. A cull swine shall not be moved or relocated to an approved premises, unless the cull swine reacts negatively to a test and is vaccinated prior to the movement or relocation, as provided in section 166D.10.

b. A noninfected feeder pig must be vaccinated upon arrival at the approved premises.

3. Dead swine must be disposed of in accordance with chapter 167. The dead swine must be held so as to prevent animals, including wild animals and livestock, from reaching the dead swine.

4. The following shall apply to the location of an approved premises:

a. An approved premises shall not be located within one and one-half miles from a noninfected herd, other than a qualified negative herd or qualified differentiable negative herd.

b. An approved premises shall not be located within three miles from a qualified negative herd or a qualified differentiable negative herd.

c. An approved premises shall not be located in any of the following:

(1) A county in stage III of the national pseudorabies eradication program, as designated by the department.

(2) A county which has a zero percent prevalence of infection among all herds in the county at any time on or after March 1, 2000, regardless of whether the county subsequently has a greater than zero percent prevalence of infection among all herds in the county.

5. A feeder pig or a cull swine may be kept at the approved premises only for purposes of feeding and restricted movement as provided in section 166D.10.

6. a. The department must certify a location as an approved premises pursuant to rules adopted by the department. The department may adopt rules providing for the renewal, suspension, or termination of a certification. The terms and conditions of the certification shall be part of the cleanup plan required for the herd kept at the location pursuant to section 166D.8. Except as provided in this subsection, a location is certified as an approved premises, as long as all of the following apply:

(1) The approved premises complies with the requirements of this section and rules adopted by the department.

(2) The owner of the approved premises or the person managing the approved premises provides to the department during normal business hours access to the approved premises and records required by this subparagraph. Records of swine transfers must be kept for at least one year. Records of vaccinations occurring on the approved premises must be maintained by the owner for at least one year after vaccination. The records shall include information about purchases and sales, the names of buyers and sellers, the dates of transactions, and the number of swine involved in each transaction.

b. The department shall terminate the certification of an approved premises, if the county in which the approved premises is located has a zero percent prevalence of infection among all herds in the county, not counting a herd kept at the approved premises. The department shall provide for the suspension or termination of the certification for a violation of a term or condition of the certification. When a certification is suspended, terminated, or not renewed, the location shall remain under a cleanup plan until released pursuant to the provisions of section 166D.8.

Sec. 19. Section 166D.11, Code 1999, is amended to read as follows:

166D.11 ~~DIFFERENTIABLE VACCINE REQUIRED~~ VACCINATION AND TESTING REQUIREMENTS.

~~Beginning on December 1, 1989, swine other than unvaccinated or differentiable vaccinated swine shall not be sold, marketed, or moved within this state, except to slaughter or to an approved premises by certificate of inspection.~~

1. ~~The secretary shall disapprove for~~ A person shall not use in this state ~~on and after July 1, 1991,~~ any vaccine that is not a differentiable vaccine.

2. a. Except as provided in this section, swine within a county which is designated by the department as in stage II of the national pseudorabies eradication program shall be vaccinated with a modified-live differentiable vaccine. The swine located in a stage II county shall be vaccinated as follows:

(1) Except as provided in subparagraph (2), the following applies:

(a) Breeding swine shall at a minimum receive quarterly vaccinations.

(b) Feeder swine shall at a minimum receive one vaccination. The feeder swine shall be vaccinated when the feeder swine reach eight to twelve weeks of age or one hundred pounds, whichever occurs earlier.

(2) If swine are required to be vaccinated prior to or after movement, as provided in section 166D.10, to a stage II county, the swine shall be vaccinated with a modified-live differentiable vaccine as otherwise required in that section.

b. The department shall adopt rules or issue an order that exempts swine from being vaccinated with a modified-live vaccine, as provided in this subsection, based on any of the following:

(1) The swine is part of a qualified negative herd or a qualified differentiable negative herd.

(2) The swine belong to a herd located within a county, if all of the following applies:

(a) The county has a history of zero percent prevalence of infection among all herds in the county, regardless of whether the county currently has a higher than zero percent prevalence of infection among all herds in the county.

(b) All contiguous counties have a zero percent prevalence of infection among herds in that county, as designated by the department.

3. a. The person who owns the swine when the swine is required to be vaccinated under this chapter, shall be solely liable for providing the vaccine and administering the vaccination. A noninfected feeder pig required to be vaccinated upon arrival at an approved premises as provided in section 166D.10B shall be vaccinated at the expense of the owner who moves the feeder pig. If the swine is transported into this state, the owner shall be deemed to be the person who owns the swine immediately prior to transportation.

b. This subsection does not prohibit the owner of swine from contracting with a person, including a person receiving ownership of swine moved into this state, to provide the vaccination, if the person receives fair compensation for providing the vaccination and the sale price for the swine is not increased because the owner must comply with this subsection.

4. The cost, or any segment of the cost, of purchasing a laboratory product used for testing and vaccination provided in this chapter may be paid for by federal or state funds or a combination of both. Federal or state funds shall not be paid to the owner of a vaccinated herd other than the owner of a herd vaccinated with a modified-live differentiable vaccine.

Sec. 20. Section 166D.12, Code 1999, is amended by striking the section and inserting in lieu thereof the following:

166D.12 CONCENTRATION POINTS.

A person shall not move swine through a concentration point, except as provided in this section.

1. For swine from a noninfected herd, the swine may be moved through any concentration point. All of the following shall apply:

a. Breeding swine must be kept separate and apart from feeder pigs.

b. Breeding swine must be sold first.

2. a. For swine other than swine from a noninfected herd, the swine shall not be moved through a concentration point other than a fixed concentration point, as required by the department. A fixed concentration point shall be used exclusively for the following:

(1) The movement of livestock other than swine.

(2) The immediate movement of swine to a slaughtering establishment.

b. A fixed concentration point shall never be used for the movement of swine other than to a slaughtering establishment.

c. A person shall not move swine to or from a fixed concentration point subject to restricted movement or receive swine subject to restricted movement at a fixed concentration point, unless the swine is moved and received in compliance with section 166D.10A.

d. Livestock, other than swine, moved to the fixed concentration point must be kept separate and apart.

e. If infected swine, exposed swine, or swine from a herd of unknown status is moved through a fixed concentration point, the owner of the fixed concentration point shall post and maintain a sign on the premises of the fixed concentration point. The sign must be posted in a conspicuous place clearly visible to persons moving livestock through the fixed concentration point. The notice shall appear in black letters a minimum of one inch high and in the following form:

NOTICE
THIS FACILITY MAY SELL SWINE WHICH
HAS BEEN EXPOSED TO PSEUDORABIES.
HOWEVER, ALL SWINE ARE MOVED
IMMEDIATELY TO SLAUGHTER.

Sec. 21. Section 166D.16, unnumbered paragraph 1, Code 1999, is amended to read as follows:

1. The provisions of this chapter including departmental rules adopted pursuant to this chapter shall be administered and enforced by the department.

2. ~~A~~ Except as provided in this subsection, a person violating a provision of this chapter or any rule adopted pursuant to this chapter shall be subject to a civil penalty of at least one hundred dollars but not more than one thousand dollars.

a. ~~However, a~~ A person who falsifies a certificate of inspection issued pursuant to this chapter shall be subject to a civil penalty of not more than five thousand dollars for each swine falsified on the certificate. A person shall not be subject to a civil penalty totaling more than twenty-five thousand dollars for falsifying a certificate, regardless of the number of swine falsified on the certificate.

b. The person who owns swine when the swine is required to be vaccinated under this chapter shall be subject to a civil penalty of two dollars for each swine which is not vaccinated as required.

Sec. 22. Sections 166D.4 and 166D.5, Code 1999, are repealed.

Sec. 23. RULEMAKING. The department of agriculture and land stewardship shall adopt rules necessary to implement this Act. Such rules shall be effective immediately upon adoption and filing in the governor's office after publication under notice and after the administrative rules review committee has had an opportunity to review the noticed rules, as provided in chapter 17A.

Sec. 24. IMPLEMENTATION. The department shall provide for the implementation of this Act based on a schedule adopted by departmental rules. However, the department shall implement all provisions of this Act by August 1, 2000.

Sec. 25. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved April 19, 2000

CHAPTER 1111

LOESS HILLS DEVELOPMENT AND CONSERVATION AUTHORITY — HUNGRY CANYONS ALLIANCE — LOESS HILLS ALLIANCE

S.F. 2348

AN ACT relating to the loess hills development and conservation authority by creating a hungry canyons alliance, providing membership guidelines for board of directors of the conservation authority and loess hills alliance, and providing for the assistance of state agencies.

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

Section 1. Section 161D.1, Code Supplement 1999, is amended by adding the following new subsection:

NEW SUBSECTION. 3A. A hungry canyons alliance is created. The hungry canyons alliance shall be governed by a board of directors appointed as provided in its bylaws and

the board shall carry out its responsibilities under the general direction of the loess hills development and conservation authority. The bylaws of the hungry canyons alliance are subject to review and approval of the loess hills development and conservation authority.

Sec. 2. Section 161D.1, Code Supplement 1999, is amended by adding the following new subsection:

NEW SUBSECTION. 5. In matters relating to the conservation, preservation, or development of the loess hills, state agencies shall coordinate, cooperate, and consult with the loess hills development and conservation authority and its associated alliances.

Sec. 3. Section 161D.5, subsection 1, Code Supplement 1999, is amended by adding the following new paragraph:

NEW PARAGRAPH. c. The voting members of the board of directors appointed pursuant to paragraphs "a" and "b" shall include agricultural producers owning real property within the loess hills landform.

Approved April 19, 2000

CHAPTER 1112

HUMAN SERVICES — ADMINISTRATION AND EMPLOYMENT

S.F. 2360

AN ACT relating to state and local administrative and employment provisions involving human services and providing an effective date.

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

DIVISION I

ADMINISTRATION OF DEPARTMENT OF HUMAN SERVICES INSTITUTIONS

Section 1. Section 218.1, unnumbered paragraph 1, Code 1999, is amended to read as follows:

The director ~~of the state department~~ of human services shall have the general and full authority given under statute to control, manage, direct, and operate the following institutions under the director's jurisdiction, and may at the director's discretion ~~execute~~ assign the powers and authorities given the director by statute to any one of the deputy directors, division administrators, or ~~to any of the~~ officers or employees of the divisions of the department of human services:

Sec. 2. Section 218.2, unnumbered paragraph 2, Code 1999, is amended to read as follows:

The ~~division~~ administrator to whom primary responsibility of a particular institution has been assigned shall make ~~such~~ reports to the director of ~~the department of~~ human services as are requested by the director and the director shall report, in writing, to the governor any abuses found to exist in any of the ~~said~~ institutions.

Sec. 3. Section 218.3, Code 1999, is amended by striking the section and inserting in lieu thereof the following:

218.3 DEFINITIONS.

For the purposes of this chapter, unless the context otherwise requires:

1. "Administrator" means the person to whom the director of human services has assigned power and authority over an institution in accordance with section 218.1.

2. "Institution" means an institution listed in section 218.1.

Sec. 4. Section 218.4, unnumbered paragraph 2, Code 1999, is amended to read as follows:

Rules adopted by the council shall be uniform and shall apply to all institutions under the particular administrator and to all other institutions under the administrator's jurisdiction and the primary rules ~~of the administrator of the division of mental health and developmental disabilities~~ for use in institutions where persons with mental illness are served shall, unless otherwise indicated, uniformly apply to county or private hospitals in which persons with mental illness are served, but the rules shall not interfere with proper medical treatment administered to patients by competent physicians. Annually, signed copies of the rules shall be sent to the ~~chief executive officer~~ superintendent of each institution or hospital under the control or supervision of a particular administrator and copies shall also be sent to the clerk of each district court, the chairperson of the board of supervisors of each county and, as appropriate, to the officer in charge of institutions or hospitals caring for persons with mental illness in each county who shall be responsible for seeing that the rules are posted in each institution or hospital in a prominent place. The rules shall be kept current to meet the public need and shall be revised and published annually.

Sec. 5. Section 218.5, Code 1999, is amended to read as follows:

218.5 FIRE PROTECTION CONTRACTS.

The administrators ~~of the divisions of the state department of human services~~ shall have power to enter into contracts with the governing body of any city or other municipal corporation for the protection from fire of any property under ~~such~~ the administrators' primary control, located in any ~~such~~ municipal corporation or in territory contiguous ~~thereto~~ to the municipal corporation, upon ~~such~~ terms as may be agreed upon.

Sec. 6. Section 218.9, unnumbered paragraph 1, Code 1999, is amended to read as follows:

The administrator ~~of the division of mental health and developmental disabilities of the department of human services~~ in charge of an institution, subject to the approval of the director of ~~the department~~ human services, shall appoint the ~~superintendents of the state hospital-schools and the state mental health institutes~~ superintendent of the institution.

Sec. 7. Section 218.10, Code 1999, is amended to read as follows:

218.10 SUBORDINATE OFFICERS AND EMPLOYEES.

The ~~division~~ administrator in charge of a particular institution, with the consent and approval of the director ~~of the department~~ of human services, shall determine the number of subordinate officers and employees for ~~each~~ the institution. Subject to this chapter, the officers and employees shall be appointed and discharged by the ~~chief executive officer~~ superintendent or business manager pursuant to chapter 19A. The ~~officer~~ superintendent shall keep, in the record of each subordinate officer and employee, the date of employment, the compensation, and the date of each discharge, and the reasons for discharge.

Sec. 8. Section 218.14, Code 1999, is amended to read as follows:

218.14 DWELLING ~~HOUSE~~ OF SUPERINTENDENT OR OTHER EMPLOYEE.

1. The ~~division~~ administrator having control over ~~any state~~ an institution may, with consent of the director of human services, furnish the ~~executive head~~ superintendent of ~~each of~~ the ~~institutions~~ institution, in addition to salary, with a dwelling ~~house~~ or with appropriate quarters in lieu ~~thereof~~ of the dwelling, or the ~~division~~ administrator may compensate the ~~executive head~~ superintendent of ~~each of~~ the ~~institutions~~ institution in lieu of furnishing a ~~house~~ dwelling or quarters. If ~~an executive head~~ the superintendent of the institution is furnished with a dwelling ~~house~~ or quarters, either of which is owned by the state, the ~~executive head~~ superintendent may also be furnished with water, heat, and electricity.

2. The ~~division~~ administrator having control over ~~any state~~ an institution may furnish assistant ~~executive heads~~ superintendents or other employees, or both, with a dwelling ~~houses~~ or with appropriate quarters, owned by the state. The assistant ~~executive head~~ superintendent or employee, who is so furnished, shall pay rent for the dwelling ~~house~~ or

quarters in an amount to be determined by the ~~executive head~~ superintendent of the institution, which shall be the fair market rental value of the ~~house~~ dwelling or quarters. If an assistant ~~executive head~~ superintendent or employee is furnished with a dwelling ~~house~~ or quarters, either of which is owned by the state, the assistant ~~executive head~~ superintendent or employee may also be furnished with water, heat, and electricity. However, the furnishing of these utilities shall be considered in determining the fair market rental value of the ~~house~~ dwelling or quarters.

Sec. 9. Section 218.17, Code 1999, is amended to read as follows:

218.17 AUTHORITY FOR VACATION.

Vacations and sick leave with pay as authorized in section 70A.1 shall only be taken at such times as the ~~executive officer~~ superintendent or the business manager in charge of ~~said~~ an officer or employee, as the case may be, may direct, and only after written authorization by the ~~executive officer~~ superintendent or business manager, and for the number of days specified ~~therein~~ in the authorization. A copy of ~~such permit~~ the authorization shall be attached to the institution's copy of the payroll of the institution, for audit purposes, for the period during which the vacation was taken, and the semimonthly payroll shall show the number of days the person was absent under the ~~permit~~ authorization.

Sec. 10. Section 218.19, Code 1999, is amended to read as follows:

218.19 DISTRICTS.

The administrator having control over ~~any state~~ a type of institution shall, from time to time, divide the state into districts from which the ~~several institutions~~ type of institution may receive residents. The particular ~~division administrators~~ administrator shall promptly notify the proper county or judicial officers of all changes in ~~such~~ the districts.

Sec. 11. Section 218.20, Code 1999, is amended to read as follows:

218.20 PLACE OF COMMITMENTS — TRANSFERS.

Commitments, unless otherwise permitted by the ~~division~~ administrator having control over ~~any state~~ an institution, shall be to the institution located in the district embracing the county from which the commitment is issued. ~~The particular division administrators~~ An administrator may, at the expense of the state, transfer a resident of one institution to another like institution.

Sec. 12. Section 218.23, Code 1999, is amended to read as follows:

218.23 REPORTS TO ADMINISTRATOR.

The ~~managing officer~~ superintendent of ~~each~~ an institution shall, within ten days after the commitment or entrance of a person to the institution, cause a true copy of the person's entrance record to be made and forwarded to the administrator in control of ~~such~~ the institution. When a patient or resident leaves, or is discharged, or transferred, or dies in ~~any~~ an institution, the superintendent or person in charge shall within ten days ~~thereafter~~ after that date send ~~such~~ the information to the office of ~~such~~ the institution's administrator on forms which the administrator prescribes.

Sec. 13. Section 218.25, Code 1999, is amended to read as follows:

218.25 RELIGIOUS BELIEFS.

The ~~chief executive officer~~ superintendent of an institution, receiving a person committed to ~~any of said institutions~~ the institution, shall inquire of ~~such~~ the person as to the person's religious preference and enter the ~~same~~ preference in the book kept for the purpose, and cause ~~said~~ the person to sign the ~~same~~ book.

Sec. 14. Section 218.30, Code 1999, is amended to read as follows:

218.30 INVESTIGATION OF OTHER INSTITUTIONS.

The administrators ~~of the department of human services~~ to whom control of ~~state~~ institutions has been ~~delegated~~ assigned, or their authorized officers or employees, may investigate charges of abuse, neglect, or mismanagement on the part of ~~any~~ an officer or employee

of ~~any~~ a private institution which is subject to the administrator's particular supervision or control. The administrator ~~of the division of mental health and developmental disabilities~~ who has been assigned to have authority over the state mental health institutes, or the administrator's authorized officer or employee, shall also investigate charges concerning county care facilities in which persons with mental illness are served.

Sec. 15. Section 218.45, Code 1999, is amended to read as follows:

218.45 CONFERENCES.

Quarterly conferences of the ~~chief executive officers~~ superintendents of ~~said~~ the institutions shall be held with the administrator in control of ~~such institution~~ the institutions at Des Moines or at institutions under the administrator's jurisdiction, for the consideration of all matters relative to the management of ~~said~~ the institutions. Full minutes of ~~such meetings~~ the conferences shall be preserved in the records of the administrator. The administrator in control may cause papers on appropriate subjects to be prepared and read~~,~~ at ~~such~~ the conferences~~, on appropriate subjects~~.

Sec. 16. Section 218.46, subsection 1, Code 1999, is amended to read as follows:

1. The ~~administrators of divisions of the department of human services who are~~ administrator who is in charge of ~~institutions~~ an institution shall encourage the scientific investigation, on the part of the ~~executive heads~~ superintendent and medical ~~staffs~~ staff of the ~~various institutions~~ institution, as to the most successful methods of ~~managing such institutions~~ institutional management and treating the persons committed ~~thereto,~~ to the institution. In addition, the administrator shall procure and furnish to ~~such heads and staffs~~ the superintendent and medical staff information relative to such management and treatment, and, from time to time, publish bulletins and reports of scientific and clinical work done in ~~said institutions~~ that type of institution.

Sec. 17. Section 218.47, Code 1999, is amended to read as follows:

218.47 MONTHLY REPORT.

The ~~chief executive officer~~ superintendent or business manager of each institution~~, or business manager of institutions having the same,~~ shall, on the first day of each month, account to the administrator in control of the particular institution for all state funds received during the preceding month, and~~,~~ at ~~said~~ the same time, remit the ~~same~~ accounting to the treasurer of state.

Sec. 18. Section 218.48, Code 1999, is amended to read as follows:

218.48 ANNUAL REPORTS.

The ~~executive head~~ superintendent or business manager of each institution shall make an annual report to the administrator in control of the particular institution and ~~embrace therein a minute~~ include in the report a detailed and accurate inventory of the stock and supplies on hand, and ~~the~~ their amount and value ~~thereof~~, under the following ~~heads~~ headings: ~~Livestock~~ livestock, farm produce on hand, vehicles, agricultural implements, machinery, mechanical fixtures, real estate, furniture, and bedding in residents' department, state property in superintendent's department, clothing, dry goods, provisions and groceries, drugs and medicine, fuel, library, and all other state property under appropriate ~~heads~~ headings to be determined by the particular administrator involved.

Sec. 19. Section 218.49, Code 1999, is amended to read as follows:

218.49 CONTINGENT FUND.

The administrator in control of ~~a state~~ an institution may permit the ~~executive head, which shall include~~ superintendent or the business manager ~~as provided in this chapter,~~ of each institution to retain a stated amount of funds ~~in~~ under the ~~executive head's~~ superintendent's or business manager's ~~possession~~ supervision as a contingent fund for the payment of freight, postage, commodities purchased on authority of the particular ~~administrator~~ superintendent or business manager involved on a cash basis, salaries, and bills granting discount for cash.

Sec. 20. Section 218.55, Code 1999, is amended to read as follows:

218.55 PURCHASE FROM AN INSTITUTION.

~~The~~ An administrator ~~of a division of the department of human services~~ may purchase supplies of any institution under the administrator's control, for use in any other ~~such~~ institution under the administrator's control, and reasonable payment ~~therefor~~ for the supplies shall be made as in the case of other purchases.

Sec. 21. Section 218.57, Code 1999, is amended to read as follows:

218.57 COMBINING APPROPRIATIONS.

The director of revenue and finance ~~is authorized to~~ may combine the balances carried in all specific appropriations into a special account for each institution under the control of a particular administrator ~~of a division of the department of human services~~, except that the support fund for each institution shall be carried as a separate account.

Sec. 22. Section 218.65, Code 1999, is amended to read as follows:

218.65 PROPERTY OF DECEASED RESIDENT.

The ~~chief executive officer~~ superintendent or business manager of each institution shall, upon the death of any resident or patient, immediately take possession of all property of the deceased left at ~~said~~ the institution, and deliver the ~~same~~ property to the duly appointed and qualified representative of the deceased.

Sec. 23. Section 218.67, Code 1999, is amended to read as follows:

218.67 ~~WHEN NO ADMINISTRATION GRANTED~~ ESTATE ADMINISTRATOR NOT IDENTIFIED.

If ~~administration be not granted~~ an estate administrator is not identified within one year from the death of a decedent in an institution, and ~~no~~ a surviving spouse or heir is not known, ~~said executive officer~~ the superintendent of the institution may convert all ~~said~~ the decedent's property into ~~money~~ cash and in so doing the ~~executive officer~~ superintendent shall have the powers possessed by a general administrator of an estate.

Sec. 24. Section 218.69, Code 1999, is amended to read as follows:

218.69 PERMANENT RECORD.

A complete permanent record of the money ~~so sent~~ transmitted to the treasurer of state under section 218.68, showing by whom and with whom it was left, its amount, the date of the death of the owner, the owner's reputed place of residence before the owner became a resident of the institution, the date on which it was ~~sent~~ transmitted to the state treasurer and any other facts which may tend to identify the intestate and explain the case, shall be kept by the ~~chief executive officer~~ superintendent of the institution or business manager, as the case may be, and a transcript ~~thereof~~ of the record shall be sent to, and kept by, the treasurer of state.

Sec. 25. Section 218.72, Code 1999, is amended to read as follows:

218.72 TEMPORARY QUARTERS IN EMERGENCY.

In case the buildings at any institution under the ~~management~~ control of an administrator ~~of the division of the department of human services~~ are destroyed or rendered unfit for habitation by reason of fire, storms, or other like causes, to such an extent that the residents cannot be ~~there confined~~ housed and cared for, ~~said~~ the administrator shall make temporary provision for the ~~confinement~~ housing and care of the residents at some other place in the state. Like provision may be made in case any pestilence breaks out among the residents. The reasonable cost of the change, including transfer of residents, shall be paid from any money in the state treasury not otherwise appropriated.

Sec. 26. Section 218.83, Code 1999, is amended to read as follows:

218.83 ~~CO-OPERATION~~ ADMINISTRATIVE IMPROVEMENT.

The director of ~~the department of~~ human services and the administrators ~~of the divisions therein are directed to co-operate~~ assigned to have authority over the institutions shall

cooperate with any department or agency of the state government in any manner, including the exchange of employees, calculated to improve administration of the affairs of the institutions ~~under the control of the department of human services~~.

Sec. 27. Section 218.85, Code 1999, is amended to read as follows:

218.85 UNIFORM SYSTEM OF ACCOUNTS.

The director of ~~the department of~~ human services through the administrators ~~of the divisions~~ in control of ~~state~~ the institutions shall install in all ~~such state~~ the institutions ~~under the director's control and supervision~~ the most modern, complete, and uniform system of accounts, records, and reports possible~~, which~~. The system shall be prescribed by the director of revenue and finance as authorized in section 421.31, subsection 10, and, among other matters, shall clearly show the detailed facts relative to the handling and uses of all purchases.

Sec. 28. Section 218.88, Code 1999, is amended to read as follows:

218.88 INSTITUTIONAL PAYROLLS.

At the close of each pay period, the ~~chief executive officer of each institution~~ superintendent or business manager of each institution ~~having the same,~~ shall prepare and forward to the director of ~~the department of~~ human services a semimonthly payroll which shall show the name of each officer and employee, the semimonthly pay, time paid for, the amount of pay, and any deductions. ~~In no event shall a~~ A substitute shall not be permitted to receive compensation in the name of the employee for whom the substitute is acting.

Sec. 29. Section 218.92, Code 1999, is amended to read as follows:

218.92 ~~DANGEROUS MENTALLY DISTURBED~~ PATIENTS WITH DANGEROUS MENTAL DISTURBANCES.

When a patient in a state hospital-school for persons with mental retardation, a state mental health institute, or ~~an~~ another institution under the administration of the ~~administrator of the division of mental health and developmental disabilities of the~~ department of human services, has become so mentally disturbed as to constitute a danger to self, to other patients ~~in~~ or staff of the institution, or to the public, and the institution cannot provide adequate security, the administrator in charge of the institution, with the consent of the director of the Iowa department of corrections, may order the patient to be transferred to the Iowa medical and classification center, if the ~~executive head~~ superintendent of the institution from which the patient is to be transferred, with the support of a majority of the medical staff, recommends the transfer in the interest of the patient, other patients, or the public. If the patient transferred was hospitalized pursuant to sections 229.6 to 229.15, the transfer shall be promptly reported to the court ~~which hospitalized~~ that ordered the hospitalization of the patient, as required by section 229.15, subsection 4. The Iowa medical and classification center has the same rights, duties, and responsibilities with respect to the patient as the institution from which the patient was transferred had while the patient was hospitalized ~~there~~ in the institution. The cost of the transfer shall be paid from the funds of the institution from which the transfer is made.

Sec. 30. Section 218.93, Code 1999, is amended to read as follows:

218.93 CONSULTANTS FOR DIRECTOR OR ADMINISTRATORS.

The director of ~~the department of~~ human services or the administrators ~~of divisions~~ in control of ~~state~~ the institutions are authorized to secure the services of consultants to furnish advice on administrative, professional, or technical problems to the director or ~~such~~ the administrators, their employees, or employees of institutions under their jurisdiction or to provide in-service training and instruction for ~~such~~ the employees. The director and administrators are authorized to pay the consultants at a rate to be determined by them from funds ~~appropriated to~~ under their ~~division~~ control or ~~to~~ from any ~~institution~~ institutional funding under their jurisdiction as ~~such~~ the director or administrator may determine.

Sec. 31. Section 218.98, Code 1999, is amended to read as follows:

218.98 CANTEEN MAINTAINED.

The administrators ~~of divisions in the department of human services~~ in control of ~~state~~ the institutions may maintain a canteen at any institution under their jurisdiction and control for the sale to persons ~~confined therein~~ residing in the institution of toilet articles, candy, tobacco products, notions, and other sundries, and may provide the necessary facilities, equipment, personnel, and merchandise ~~therefor~~ for such sale. ~~Such~~ The administrators shall specify what commodities will be sold ~~therein~~ in the canteen. The department may establish and maintain a permanent operating fund for each canteen. The fund shall consist of the receipts from the sale of commodities at the canteen.

Sec. 32. Section 218.99, Code 1999, is amended to read as follows:

218.99 COUNTIES TO BE NOTIFIED OF PATIENTS' PERSONAL ACCOUNTS.

The administrator ~~of a division of the department of human services~~ in control of a state institution shall direct the business manager of each institution under the administrator's jurisdiction which is mentioned in section 331.424, subsection 1, paragraphs "a" and "b", and for which services are paid under section 331.424A, to quarterly inform the county of legal settlement's entity designated to perform the county's single entry point process of any patient or resident who has an amount in excess of two hundred dollars on account in the patients' personal deposit fund and the amount on deposit. The administrators shall direct the business manager to further notify the entity designated to perform the county's single entry point process at least fifteen days before the release of funds in excess of two hundred dollars or upon the death of the patient or resident. If the patient or resident has no county of legal settlement, notice shall be made to the director of human services and the administrator ~~of the division of the department~~ in control of the institution involved.

Sec. 33. Section 225C.4, subsection 1, paragraph h, and subsection 2, paragraph b, Code Supplement 1999, are amended by striking the paragraphs.

Sec. 34. Section 225C.13, Code 1999, is amended to read as follows:

225C.13 AUTHORITY ~~OF ADMINISTRATOR~~ TO ESTABLISH AND LEASE FACILITIES.

1. The administrator assigned, in accordance with section 218.1, to control the state mental health institutes and the state resource centers may enter into agreements under which a facility or portion of a facility administered by the administrator is leased to a department or division of state government, a county or group of counties, or a private nonprofit corporation organized under chapter 504A. A lease executed under this section shall require that the lessee use the leased premises to deliver either disability services or other services normally delivered by the lessee.

2. The administrator of the division of mental health and developmental disabilities may work with the appropriate administrator of the department's institutions to establish mental health and mental retardation services for all institutions under the control of the director of human services and to establish an autism unit, following mutual planning and consultation with the medical director of the state psychiatric hospital, at an institution or a facility administered by the department to provide psychiatric and related services and other specific programs to meet the needs of autistic persons, and to furnish appropriate diagnostic evaluation services.

Sec. 35. Section 226.47, Code 1999, is amended to read as follows:

226.47 ADMINISTRATOR DEFINED.

For the purpose of this chapter, "administrator" means the ~~administrator of the division of mental health and developmental disabilities of the department of human services~~ person assigned, in accordance with section 218.1, to control the state mental health institutes.

Sec. 36. Section 227.19, Code 1999, is amended to read as follows:

227.19 ADMINISTRATOR DEFINED.

For the purpose of this chapter, "administrator" or "administrator of the division" means the ~~administrator of the division of mental health and developmental disabilities of the department of human services~~ person assigned, in accordance with section 218.1, to control the state mental health institutes or that person's designee.

Sec. 37. Section 229.1, subsection 1, Code 1999, is amended to read as follows:

1. "Administrator" means the administrator of ~~that division of~~ the department of human services ~~having jurisdiction of~~ assigned, in accordance with section 218.1, to control the state mental health institutes, or that administrator's designee.

Sec. 38. Section 229.15, subsection 3, Code 1999, is amended to read as follows:

3. When a patient has been placed in a facility other than a hospital pursuant to section 229.14, subsection 4, a report on the patient's condition and prognosis shall be made to the court which ~~so~~ placed the patient, at least once every six months, unless the court authorizes annual reports. ~~A report shall be submitted within fifteen days after the facility in which the patient has been placed is evaluated as required by~~ If an evaluation of the patient is performed pursuant to section 227.2, subsection 4, a copy of the evaluation report shall be submitted to the court within fifteen days of the evaluation's completion. The court may in its discretion waive the requirement of an additional report between the annual evaluations. If the administrator ~~of the division~~ exercises the authority to remove residents from a county care facility or other county or private institution under section 227.6, the administrator shall promptly notify each court which placed in that facility any resident so removed.

Sec. 39. Section 229.41, Code 1999, is amended to read as follows:

229.41 VOLUNTARY ADMISSION.

Persons making application pursuant to section 229.2 on their own behalf or on behalf of another person who is under eighteen years of age, if the person whose admission is sought is received for observation and treatment on ~~such~~ the application, shall be required to pay the costs of hospitalization at rates established by the administrator ~~of the division, which~~. The costs may be collected weekly in advance and shall be payable at the business office of the hospital. ~~Such~~ The collections shall be remitted to the director of revenue and finance monthly to be credited to the general fund of the state.

Sec. 40. Section 229.43, Code 1999, is amended to read as follows:

229.43 NONRESIDENTS OR NO-SETTLEMENT PATIENTS.

The administrator ~~of the division shall have the power to~~ may place patients of mental health institutes who have no county of legal settlement; who are nonresidents; or whose legal settlement is unknown, on convalescent leave to a private sponsor or in ~~any~~ a health care facility licensed under chapter 135C, when in the opinion of the administrator ~~said~~ the placement is in the best interests of the patient and the state of Iowa. If the patient was involuntarily hospitalized, the district court which ~~hospitalized~~ ordered hospitalization of the patient must be informed when the patient is placed on convalescent leave, as required by section 229.15, subsection 4.

Sec. 41. Section 230.5, Code 1999, is amended to read as follows:

230.5 NONRESIDENTS.

If such legal settlement is found by the court to be in some foreign state or country, or unknown, ~~it~~ the court shall immediately notify the administrator ~~of the division~~ of ~~such~~ the finding and furnish the administrator with a copy of the evidence taken on the question of legal settlement, and shall in its order issued pursuant to section 229.13 direct that the patient be hospitalized at the appropriate state hospital for persons with mental illness.

Sec. 42. Section 230.31, Code 1999, is amended to read as follows:

230.31 DEPARTERS FROM OTHER STATES.

~~When any~~ If a person with mental illness departs without proper authority from an institution in another state and is found in this state, ~~any~~ a peace officer in ~~any~~ the county in which ~~such~~ the patient is found may take and detain the patient without order and shall report ~~such~~ the detention to the administrator ~~of the division~~ who shall provide for the return of ~~such~~ the patient to the authorities of the state where the unauthorized leave was made. Pending such return ~~such~~ the patient may be detained temporarily at one of the institutions of this state ~~governed by~~ under the control of the administrator ~~of the division~~ or any other administrator of the ~~state~~ department of human services. Expenses incurred under this section shall be paid in the same manner as is provided for transfers in section 230.8.

Sec. 43. Section 230.33, unnumbered paragraph 1, Code 1999, is amended to read as follows:

The administrator ~~of the division is hereby authorized to~~ may enter into agreements with other states, through their duly constituted authorities, to effect the reciprocal return of persons with mental illness and persons with mental retardation to the contracting states, and to effect the reciprocal supervision of persons on convalescent leave.

Sec. 44. Section 230.34, subsection 1, Code 1999, is amended to read as follows:

1. As used in this chapter, "administrator" means the administrator of ~~the division of mental health and developmental disabilities of~~ the department of human services assigned, in accordance with section 218.1, to control the state mental health institutes, or that administrator's designee.

DIVISION II
RESOURCE CENTERS

Sec. 45. Section 218.1, subsections 1 and 2, Code 1999, are amended to read as follows:

1. Glenwood state ~~hospital-school~~ resource center.
2. Woodward state ~~hospital-school~~ resource center.

Sec. 46. Section 222.1, Code 1999, is amended to read as follows:

222.1 PURPOSE OF STATE ~~SCHOOLS~~ RESOURCE CENTERS.

1. The Glenwood state ~~hospital-school~~ resource center and the Woodward state ~~hospital-school~~ resource center are established and shall be maintained as the state's regional resource centers for the purpose of providing treatment, training, instruction, care, habilitation, and support of persons with mental retardation or other disabilities in this state, and providing facilities, services, and other support to the communities located in the region being served by a state ~~hospital-school~~ resource center. In addition, the state ~~hospital-schools~~ resource centers are encouraged to serve as a training resource for community-based program staff, medical students, and other participants in professional education programs. A ~~hospital-school~~ resource center may request the approval of the council on human services to change the name of the ~~institution~~ resource center for use in communication with the public, in signage, and in other forms of communication.

2. A special mental retardation unit may be maintained at one of the state mental health institutes for the purposes set forth in sections 222.88 to 222.91.

Sec. 47. Section 222.2, subsection 1, Code 1999, is amended to read as follows:

1. "Administrator" means the ~~administrator of the division of mental health and developmental disabilities of~~ person assigned by the ~~department~~ director of human services, in accordance with section 218.1, to control the state resource centers.

Sec. 48. Section 222.2, subsection 3, Code 1999, is amended by striking the subsection.

Sec. 49. Section 222.2, Code 1999, is amended by adding the following new subsection:
NEW SUBSECTION. 6A. "State resource centers" or "resource centers" means the Glenwood state resource center and the Woodward state resource center.

Sec. 50. Section 222.2, subsection 7, Code 1999, is amended to read as follows:
7. "Superintendents" means the superintendents of the state ~~hospital-schools~~ resource centers.

Sec. 51. AMENDMENTS TO TERMS "HOSPITAL-SCHOOL" AND "HOSPITAL-SCHOOLS" — DIRECTIVE TO CODE EDITOR.
1. Sections 218.92, 222.5, 222.6, 222.7, 222.9, 222.12, 222.13, 222.15, 222.31, 222.36, 222.37, 222.38, 222.39, 222.41, 222.42, 222.43, 222.44, 222.45, 222.51, 222.59, 222.60, 222.61, 222.62, 222.65, 222.66, 222.67, 222.68, 222.69, 222.70, 222.72, 222.73, 222.77, 222.78, 222.83, 222.84, 222.85, 222.86, 222.87, 227.6, 249A.11, and 252.16, Code 1999, are amended by striking from the sections the word "hospital-school" and inserting in lieu thereof the words "resource center".
2. Sections 23A.2, 222.13A, and 227.2, Code Supplement 1999, are amended by striking from the sections the word "hospital-school" and inserting in lieu thereof the words "resource center".
3. Sections 135B.9, 218.78, 222.3, 222.4, 222.6, 222.7, 222.8, 222.11, and 222.90, Code 1999, are amended by striking from the sections the word "hospital-schools" and inserting in lieu thereof the words "resource centers".
4. Sections 225C.4, 225C.6, 227.2, and 331.440A, Code Supplement 1999, are amended by striking from the sections the word "hospital-schools" and inserting in lieu thereof the words "resource centers".
5. The Code editor shall substitute the words "resource center" for the word "hospital-school" anywhere in the Code of Iowa or in any enactment to be codified if there appears to be no doubt as to the intent to refer to the Glenwood resource center or Woodward resource center under the authority of the department of human services.
6. The Code editor shall substitute the words "resource centers" for the word "hospital-schools" anywhere in the Code of Iowa or in any enactment to be codified if there appears to be no doubt as to the intent to refer to the Glenwood resource center and Woodward resource center under the authority of the department of human services.

DIVISION III
COUNTY CLUSTER EMPLOYEE AND
VOLUNTEER RECORD CHECKS

Sec. 52. NEW SECTION. 217.44 COUNTY CLUSTERS — EMPLOYEE AND VOLUNTEER RECORD CHECKS.
1. The department shall conduct criminal and child and dependent adult abuse record checks of persons who are potential employees, employees, potential volunteers, and volunteers in county cluster offices in a position having direct contact with the department's clients. The record checks shall be performed in this state and the department may conduct these checks in other states. If the department determines that a person has been convicted of a crime or has a record of founded child or dependent adult abuse, the department shall perform an evaluation to determine whether the crime or founded abuse warrants prohibition of the person's employment or participation as a volunteer. The record checks and evaluation shall be performed in accordance with procedures adopted for this purpose by the department.
2. In an evaluation, the department shall consider the nature and seriousness of the crime or founded child or dependent adult abuse in relation to the position sought or held, the time elapsed since the commission of the crime or founded abuse, the circumstances under which the crime or founded abuse was committed, the degree of rehabilitation, the likelihood that the person will commit the crime or founded abuse again, and the number of crimes or founded abuses committed by the person involved.

3. The department may permit a person who is evaluated to be employed or to participate as a volunteer if the person complies with the department's conditions relating to employment or participation as a volunteer which may include completion of additional training.

4. If the department determines that the person has committed a crime or has a record of founded child or dependent adult abuse which warrants prohibition of employment or participation as a volunteer, the person shall not be employed by or participate as a volunteer in a department cluster office in a position having direct contact with the department's clients.

DIVISION IV
SERVICE INFORMATION — OTHER PROVISIONS

Sec. 53. Section 225C.20, Code 1999, is amended to read as follows:

225C.20 RESPONSIBILITIES OF COUNTIES FOR INDIVIDUAL CASE MANAGEMENT SERVICES.

Individual case management services funded under medical assistance shall be provided by the department except when a county or a consortium of counties contracts with the department to provide the services. A county or consortium of counties may contract to be the provider at any time and the department shall agree to the contract so long as the contract meets the standards for case management adopted by the department. The county or consortium of counties may subcontract for the provision of case management services so long as the subcontract meets the same standards. A county board of supervisors may change the provider of individual case management services at any time. If the current or proposed contract is with the department, the county board of supervisors shall provide written notification of a ~~proposed change to the department on or before August 15 and written notification of an approved change on or before November 15 in the fiscal year which precedes the fiscal year in which the~~ change at least ninety days before the date the change will take effect.

Sec. 54. Section 331.440A, subsection 1, paragraph b, Code Supplement 1999, is amended to read as follows:

b. "Pilot project areas" means the pilot project created under this section involving the ~~three-county~~ county or multicounty single entry point process administrative areas designated in accordance with this section.

Sec. 55. Section 331.440A, subsection 3, Code Supplement 1999, is amended to read as follows:

3. PROJECT ESTABLISHED. The department of human services shall establish a pilot project for decategorizing the public funding for adult mental health, mental retardation, and developmental disabilities services in accordance with this section. The pilot project shall include the three-county single entry point process administrative areas designated for decategorization planning under 1997 Iowa Acts, chapter 169, section 13, Washington county, and Webster county. Under the pilot project, a projected funding amount for a fiscal year shall be developed for each of the ~~three administrative~~ pilot project areas, from the funding sources designated in this section. The projected funding amount for a fiscal year, manner of payment, and other provisions of the pilot project shall be delineated in contracts between the department and the counties involved in the pilot project.

Sec. 56. Section 331.440A, subsection 7, paragraph a, subparagraph (1), Code Supplement 1999, is amended to read as follows:

(1) At least one service consumer, one service provider, and one county supervisor from each of the ~~three~~ pilot project areas, designated by the governor.

Sec. 57. INFORMATION. The department of human services shall develop data that tracks the county of residence for all individuals who received mental health or developmental disabilities services funded by medical assistance and for which the nonfederal share was paid by a county. In addition, the department shall provide this data for individuals who received such services and for which the state paid the nonfederal share. Initially, the data shall be reported for all or part, as available, of fiscal years 1998-1999 and 1999-2000. The aggregate data, along with other pertinent information, shall be submitted as soon as is practicable to the governor, general assembly, and any task force created by the legislative council to study mental health and developmental disabilities services.

Sec. 58. EFFECTIVE DATE. This division of this Act, being deemed of immediate importance, takes effect upon enactment.

Approved April 19, 2000

CHAPTER 1113

PROPERTY TAX CERTIFICATION BY TOWNSHIPS

S.F. 2418

AN ACT relating to certification of property taxes by townships and providing an effective date.

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

Section 1. Section 359.17, Code 1999, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. If a township fails to certify property taxes by March 15, the amount of taxes collected by the county for the township shall be the amount collected for the township in the previous fiscal year to the extent that it does not exceed the applicable levy rate limits in this chapter. However, that amount may not exceed the amount the township could collect based on property assessments for the fiscal year for which the township failed to certify property taxes.

Sec. 2. TRANSITION.

Notwithstanding section 359.17, as amended by this Act, or any other provision of the Code to the contrary, the chairperson of the board of township trustees shall have until May 1, 2000, to certify township property taxes pursuant to that section for property taxes due and payable in the fiscal year beginning July 1, 2000.

Sec. 3. CONTINGENT REPEAL. If section 359.49, relating to the consequences of a township's failure to certify property taxes, is enacted by 2000 Iowa Acts, House File 2492,[1] section 1 of this Act is repealed effective July 1, 2000.

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

Approved April 19, 2000

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[1] Chapter 1117 herein

CHAPTER 1114

ELECTRICITY AND NATURAL GAS REPLACEMENT TAX

S.F. 2420

AN ACT relating to the administration and enforcement of the replacement tax imposed on the generation, transmission, and delivery, consumption, and use of electricity and natural gas, providing for the Act's retroactive applicability, and providing an effective date.

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

Section 1. Section 421.10, Code 1999, is amended to read as follows:

421.10 APPEAL PERIOD — APPLICABILITY.

The appeal period for revision of assessment of tax, interest, and penalties set out under section 422.28, 422.54, 437A.9, 437A.22, 452A.64, 453A.29, or 453A.46 applies to appeals to notices from the department denying changes in filing methods, denying refund claims, and denying portions of refund claims for the tax covered by that section, and notices of any department action directed to a specific taxpayer, other than licensing, which involves a calculation.

Sec. 2. Section 437A.3, subsection 1, unnumbered paragraph 1, Code Supplement 1999, is amended to read as follows:

"Assessed value" means the base year assessed value, as adjusted by section 437A.19, subsection 2. "Base year assessed value", for a taxpayer other than an electric company, natural gas company, or electric cooperative, means the value attributable to property identified in section 427A.1, subsection 1, paragraph "h", certified by the department of revenue and finance to the county auditors for the assessment date of January 1, 1997, and the value attributable to property identified in section 427A.1 and section 427B.17, subsection 5, as certified by the local assessors to the county auditors for the assessment date of January 1, 1997, provided, that for a taxpayer subject to section 437A.17A, such value shall be the value certified by the department of revenue and finance and local assessors to the county auditors for the assessment date of January 1, 1998.

Sec. 3. Section 437A.5, subsection 7, unnumbered paragraph 2, Code 1999, is amended to read as follows:

~~Section 437A.5, subsection~~ Subsection 2~~,~~ does not apply to natural gas consumed by a person, other than an electric company, natural gas company, electric cooperative, or municipal utility, acquired by means of facilities owned by or leased to such person on January 1, 1999, which were physically attached to pipelines that are not permitted pursuant to chapter 479 and used by such person for the purpose of bypassing the local natural gas company or municipal utility.

Sec. 4. Section 437A.5, subsection 7, Code 1999, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Subsection 1 does not apply to natural gas which is delivered, by a pipeline that is not permitted pursuant to chapter 479, into a facility owned by or leased to a person, other than an electric company, natural gas company, electric cooperative, or municipal utility, if the person who consumes the gas uses the gas for the purpose of bypassing the local natural gas company or municipal utility, regardless of whether such facility existed on January 1, 1999.

Sec. 5. Section 437A.6, subsection 2, Code 1999, is amended to read as follows:

2. For purposes of this section, if a generation facility is jointly owned or leased, ~~the taxpayer shall compute~~ the number of kilowatt-hours of electricity subject to the replacement generation tax ~~by multiplying the taxpayer's percentage interest in the jointly held generation facility by the number of kilowatt-hours of electricity generated~~ shall be the

number of kilowatt-hours of electricity generated and dispatched by the jointly held generation facility to the account of the taxpayer.

Sec. 6. Section 437A.6, Code 1999, is amended by adding the following new subsection:
NEW SUBSECTION. 3. For purposes of this section, the number of kilowatt-hours generated by a generation facility shall exclude any kilowatt-hours used to operate that generation facility.

Sec. 7. Section 437A.8, subsection 4, Code 1999, is amended by adding the following new unnumbered paragraphs:
NEW UNNUMBERED PARAGRAPH. If a distribution electric cooperative member or a municipal utility purchasing member subject to section 437A.15, subsection 3, paragraph "b", does not make timely payment of the correct amount of replacement tax to the generation and transmission electric cooperative and the generation and transmission electric cooperative so notifies the director and the appropriate county treasurer within fifteen days after August 1, and timely remits to the county treasurer the amounts of replacement tax received by the generation and transmission elective[1] cooperative in accordance with section 437A.15, subsection 3, paragraph "b", the generation and transmission electric cooperative shall not be liable for the unpaid replacement tax due from the distribution electric cooperative member or municipal utility purchasing member. The generation and transmission electric cooperative shall also not be liable for a special utility property tax levy, if any, and shall not be entitled to a tax credit, if any, attributable to the unpaid replacement tax. The county treasurer and the director shall enforce payment of the replacement tax against the appropriate distribution electric cooperative member or municipal utility purchasing member pursuant to sections 437A.9 through 437A.13. The county treasurer shall enforce payment of the special utility property tax levy, if any, against the appropriate distribution electric cooperative member or municipal utility purchasing member.
NEW UNNUMBERED PARAGRAPH. If a generation and transmission electric cooperative receives some, but not all, of the required payment from a distribution electric cooperative member or a municipal utility purchasing member, the generation and transmission electric cooperative shall notify the director within fifteen days after August 1. The director shall then notify the generation and transmission electric cooperative of the paid amount to be remitted to the appropriate county treasurer and shall also notify the county treasurer. If the generation and transmission electric cooperative timely notifies the director and timely remits to the county treasurer the amounts of replacement tax, as determined by the director, the generation and transmission electric cooperative shall not be liable for that unpaid replacement tax due from the distribution electric cooperative member or municipal utility purchasing member. The generation and transmission electric cooperative shall also not be liable for a special utility property tax levy, if any, and shall not be entitled to a tax credit, if any, attributable to the unpaid replacement tax. The county treasurer and the director shall enforce payment of the replacement tax against the appropriate distribution electric cooperative member or municipal utility purchasing member pursuant to sections 437A.9 through 437A.13. The county treasurer shall enforce payment of the special utility property tax levy, if any, against the appropriate distribution electric cooperative member or municipal utility purchasing member.
NEW UNNUMBERED PARAGRAPH. If a generation and transmission electric cooperative, after notice, does not timely pay the correct amount of replacement tax or special utility property tax levy attributable to the excess property tax liability to the appropriate county treasurer, after receiving the required payment from the distribution electric cooperative member or municipal utility purchasing member, such replacement tax shall be enforced solely against the generation and transmission electric cooperative under sections 437A.9 through 437A.13, and shall not be enforced against the paying distribution electric cooperative member or municipal utility purchasing member, and the special utility property tax levy shall be enforced solely against the generation and transmission electric cooperative.

[1] The word "electric" probably intended

Sec. 8. Section 437A.11, unnumbered paragraph 6, Code 1999, is amended to read as follows:

Section 445.3 applies with respect to the replacement taxes and special utility property tax levies and penalties and interest imposed by this chapter, except for the provisions limiting the commencement of actions. In addition, at the county treasurer's discretion, chapters 446, 447, and 448 apply in the enforcement of the special utility property tax levies, but any tax deed issued shall not extinguish a tax lien or judgment lien for replacement taxes that has attached to the property.

Sec. 9. Section 437A.14, subsection 1, paragraph b, Code Supplement 1999, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. If an amount of overpaid replacement tax is attributable to payment of excess property tax liability as described in section 437A.15, subsection 3, paragraph "b", a claim for refund or credit may only be made by, and a refund or credit shall only be made to, the person who made such excess payment. Such claim shall not be made by the person who collected the tax from another person.

Sec. 10. Section 437A.15, subsection 3, Code Supplement 1999, is amended to read as follows:

3. a. All replacement taxes owed by a taxpayer shall be allocated among the local taxing districts in which such taxpayer's property is located in accordance with a general allocation formula determined by the department of management on the basis of general property tax equivalents. General property tax equivalents shall be determined by applying the levy rates reported by each local taxing district to the department of management on or before June 30 following a tax year to the assessed value of taxpayer property allocated to each such local taxing district as adjusted and reported to the department of management in such tax year by the director pursuant to section 437A.19, subsection 2. The general allocation formula for a tax year shall allocate to each local taxing district that portion of the replacement taxes owed by each taxpayer which bears the same ratio as such taxpayer's general property tax equivalents for each local taxing district bears to such taxpayer's total general property tax equivalents for all local taxing districts in Iowa.

b. Notwithstanding other provisions of this section, if excess property tax liability has been assigned pursuant to section 437A.4, subsection 3, paragraph "c", subparagraph (4), and has not been removed, the allocation of electric delivery replacement tax attributable to the excess property tax liability shall be made by the director and the department of management so as to allocate the electric delivery replacement tax attributable to the excess property tax liability among those local taxing districts in which the property associated with the excess property tax liability is located. In order to ensure that the electric delivery replacement tax attributable to the excess property tax liability is paid to the appropriate county treasurer for disposition to the local taxing districts, each distribution electric cooperative member and each municipal utility purchasing member subject to section 437A.4, subsection 3, paragraph "c", subparagraph (4), shall pay to the appropriate generation and transmission electric cooperative the electric delivery replacement tax attributable to the excess property tax liability by August 1. The amount of electric delivery replacement tax attributable to the excess property tax liability shall equal that percentage of total electric delivery replacement tax liability that the excess property tax liability bears to the total property tax liability contained in the electric delivery tax component. The generation and transmission electric cooperative shall pay the electric delivery replacement tax attributable to the excess property tax liability to the appropriate county treasurer.

c. If paragraph "b" is applicable, on or before June 1, the director shall notify each distribution electric cooperative member, each municipal utility purchasing member, and each generation and transmission electric cooperative of the amount of electric delivery replacement tax to pay to the generation and transmission electric cooperative. On or before June 1, the director shall notify the generation and transmission electric cooperative of the amount of replacement tax liability attributable to the excess property tax liability that is payable to each

county treasurer. The director shall determine the amount of any special utility property tax levy or tax credit attributable to the excess property tax liability which shall be reflected in the amount required to be paid by each distribution electric cooperative member and each municipal utility purchasing member to the generation and transmission electric cooperative.

Sec. 11. Section 437A.15, subsection 4, unnumbered paragraph 1, Code Supplement 1999, is amended to read as follows:

On or before August 31 following tax years 1999, 2000, and 2001, each county treasurer shall compute a special utility property tax levy or tax credit for each taxpayer for which a replacement tax liability for each such tax year is reported to the county treasurer pursuant to subsection 1, and shall notify the taxpayer of the amount of such tax levy or tax credit. The amount of the special utility property tax levy or credit shall be determined for each taxpayer by the county treasurer by comparing the taxpayer's total replacement tax liability allocated to taxing districts in the county pursuant to this section with the anticipated tax revenues from the taxpayer for all taxing districts in the county. If the taxpayer's total replacement tax liability allocated to taxing districts in the county is less than the anticipated tax revenues from the taxpayer for all taxing districts in the county, the county treasurer shall levy a special utility property tax equal to the shortfall which shall be added to and collected with the replacement tax owed by the taxpayer to the county treasurer for the tax year pursuant to section 437A.8, subsection 4. If the taxpayer's total replacement tax liability allocated to taxing districts in the county exceeds the anticipated tax revenues from the taxpayer for all taxing districts in the county, the county treasurer shall issue a credit to the taxpayer which shall be applied to reduce the taxpayer's replacement tax liability to the county treasurer for the tax year. If the taxpayer's total replacement tax liability allocated to taxing districts in the county equals the anticipated tax revenues from the taxpayer for all taxing districts in the county, no levy or credit is required. Replacement tax liability for purposes of this subsection means replacement tax liability before credits allowed by section 437A.8, subsection 7. A recalculation of a special utility property tax levy or credit shall not be made as a result of a subsequent recalculation of replacement tax liability under section 437A.8, subsection 7, or adjustment to assessed value under section 437A.19, subsection 2, paragraph "f". "Anticipated tax revenues from a taxpayer" means the product of the total levy rates imposed by the taxing districts and the value of taxpayer property allocated to the taxing districts and reported to the county auditor. Special utility property tax levies and credits shall be treated as replacement taxes for purposes of section 437A.11. If a special utility property tax levy payment becomes delinquent, the delinquent payment shall accrue interest and penalty in the same manner and amount as the replacement tax under section 437A.13.

Sec. 12. Section 437A.19, subsection 2, paragraph f, unnumbered paragraph 3, Code Supplement 1999, is amended to read as follows:

The director, on or before October 31, 1999, in the case of January 1, 1999, assessed values, and on or before August 31 of each subsequent assessment year, shall report to the department of management and to the auditor of each county the adjusted assessed value of taxpayer property as of January 1 of such assessment year for each local taxing district, provided that for a taxpayer whose base year as defined in section 437A.3, subsection 1, changed from 1997 to 1998, the director shall, before May 1, 2000, report to the department of management and to the auditor of each county, the assessed values as of January 1, 1999. For purposes of this subsection, the assessed value of taxpayer property in each local taxing district subject to adjustment under this section by the director means the assessed value of such property as of the preceding January 1 as determined and allocated among the local taxing districts by the director.

Sec. 13. Section 437A.21, Code 1999, is amended by adding the following new subsection:

NEW SUBSECTION. 6. Notwithstanding subsections 1 through 5, a taxpayer is not required to file a return under this section or to remit any statewide property tax for any tax year in which the taxpayer's statewide property tax liability is one dollar or less.

Sec. 14. Section 443.2, unnumbered paragraph 2, Code 1999, is amended to read as follows:

The county auditor shall list the aggregate actual value and the aggregate taxable value of all taxable property within the county and each political subdivision including property subject to the statewide property tax imposed under section 437A.18 on the tax list in order that the actual value of the taxable property within the county or a political subdivision may be ascertained and shown by the tax list for the purpose of computing the debt-incurring capacity of the county or political subdivision. As used in this section, "actual value" is the value determined under section 441.21, subsections 1 to 3, prior to the reduction to a percentage of actual value as otherwise provided in section 441.21. "Actual value" of property subject to statewide property tax is the assessed value under section 437A.18.

Sec. 15. Section 445.57, Code 1999, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The county treasurer shall apportion all interest and penalties on the replacement taxes and special utility property tax levies collected by the county treasurer to the general fund. Replacement taxes collected by the county treasurer shall be apportioned as set forth in this section.

Sec. 16. RECOMPUTATION. The director of revenue and finance shall recompute the electric replacement delivery tax rate applicable to each electric competitive service area under section 437A.4 in order to reflect the electric generation tax component determined under section 437A.6, as amended by this Act. If the recomputed electric replacement delivery tax rate differs from the delivery tax rate published in the Iowa administrative bulletin in 1999, the director shall publish the recomputed tax rate in the Iowa administrative bulletin within ninety days of the effective date of this Act.

Sec. 17. RETROACTIVE APPLICABILITY. Sections 3, 4, 5, 6, 7, 9, and 10 of this Act, amending section 437A.5, subsection 7; section 437A.6; section 437A.8, subsection 4; section 437A.14, subsection 1; and section 437A.15, subsection 3, respectively, apply retroactively to January 1, 1999, for tax years beginning on and after that date.

Sec. 18. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved April 19, 2000

CHAPTER 1115

INDIGENT DEFENSE

H.F. 2470

AN ACT relating to the office of the state public defender including indigent defense costs and the appropriation of indigent defense funds.

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

Section 1. Section 13B.8, subsection 2, Code Supplement 1999, is amended to read as follows:

2. The state public defender may appoint ~~a local public defender~~ and may remove the local public defender, assistant local public defenders, clerks, investigators, secretaries, or other

employees for cause. Each local public defender, and any assistant local public defender, must be an attorney admitted to the practice of law before the Iowa supreme court.

Sec. 2. Section 232.141, subsection 2, Code Supplement 1999, is amended to read as follows:

2. All of the following expenses are a charge upon the county in which the proceedings are held, to the extent provided in subsection 3:

a. The fees and mileage of witnesses and the expenses of officers serving notices and subpoenas which are incurred ~~in connection with the appointment of~~ by an attorney appointed by the court to serve as counsel to any party or to serve as a guardian ad litem for any child.

b. Reasonable compensation for an attorney appointed by the court to serve as counsel to any party or as guardian ad litem for any child. ~~However, the amount of compensation paid shall be paid in accordance with section 815.7.~~

Sec. 3. Section 232.141, subsection 3, paragraph c, Code Supplement 1999, is amended to read as follows:

c. Costs incurred ~~under subsection 2 which are not paid by the county under paragraphs "a" and "b" shall be paid by the state. However, before any costs are paid, a claim must be submitted to and approved by the state public defender who shall prescribe rules and forms to implement this subsection~~ for compensation of an attorney appointed by the court to serve as counsel to any party or guardian ad litem for any child shall be made in accordance with sections 13B.4 and 815.7.

Sec. 4. Section 232.141, subsection 3, Code Supplement 1999, is amended by adding the following new paragraph:

NEW PARAGRAPH. d. Costs incurred under subsection 2 shall be paid by the state. The county shall be required to reimburse the indigent defense fund for costs incurred by the state up to the county's base in subsection 2.

Sec. 5. Section 815.7, Code Supplement 1999, is amended to read as follows:

815.7 FEES TO ATTORNEYS.

An attorney who has not entered into a contract authorized under section 13B.4 and who is appointed by the court to represent any person charged with a crime in this state, seeking postconviction relief, against whom a contempt action is pending, appealing a criminal conviction, appealing a denial of postconviction relief, or subject to a proceeding under chapter 229A, or to serve as counsel for any person or guardian ad litem for any child in juvenile court, shall be entitled to reasonable compensation and expenses. For appointments made on or after July 1, 1999, 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 ~~offenses~~ cases. The expenses shall include any sums as are necessary for investigations in the interest of justice, and the cost of obtaining the transcript of the trial record and briefs if an appeal is filed. The attorney need not follow the case into another county or into the appellate court unless so directed by the court. If the attorney follows the case into another county or into the appellate court, the attorney shall be entitled to compensation as provided in this section. Only one attorney fee shall be so awarded in any one case except that in class "A" felony cases, two may be authorized.

Sec. 6. Section 815.9, subsection 1, Code Supplement 1999, is amended to read as follows:

1. For purposes of this chapter, chapter 13B, chapter 229A, chapter 232, chapter 665, chapter 814, chapter 822, and the rules of criminal procedure, a person is indigent if the person is entitled to an attorney appointed by the court as follows:

a. A person is entitled to an attorney appointed by the court to represent the person if the person has an income level at or below one hundred twenty-five percent of the United States

poverty level as defined by the most recently revised poverty income guidelines published by the United States department of health and human services, unless the court determines that the person is able to pay for the cost of an attorney to represent the person on the pending ~~charges~~ case. In making the determination of a person's ability to pay for the cost of an attorney, the court shall consider not only the person's income, but also the availability of any assets subject to execution, including but not limited to cash, stocks, bonds, and any other property which may be applied to the satisfaction of judgments and the seriousness of the charge or nature of the case.

b. A person with an income level greater than one hundred twenty-five percent, but at or below two hundred percent, of the most recently revised poverty income guidelines published by the United States department of health and human services shall not be entitled to an attorney appointed by the court, unless the court makes a written finding that not appointing counsel on the pending ~~charges~~ case would cause the person substantial hardship. In determining whether substantial hardship would result, the court shall consider not only the person's income, but also the availability of any assets subject to execution, including but not limited to cash, stocks, bonds, and any other property which may be applied to the satisfaction of judgments and the seriousness of the charge or nature of the case.

c. A person with an income level greater than two hundred percent of the most recently revised poverty income guidelines published by the United States department of health and human services shall not be entitled to an attorney appointed by the court, unless the person is charged with a felony and the court makes a written finding that not appointing counsel would cause the person substantial hardship. In determining whether substantial hardship would result, the court shall consider not only the person's income, but also the availability of any assets subject to execution, including but not limited to cash, stocks, bonds, and any other property which may be applied to the satisfaction of judgments and the seriousness of the charge or nature of the case.

Sec. 7. Section 815.10, subsection 1, Code Supplement 1999, is amended to read as follows:

1. The court, for cause and upon its own motion or upon application by an indigent person or a public defender, shall appoint ~~the state public defender,~~ the state public defender's designee pursuant to section 13B.4, or an attorney pursuant to section 13B.9 to represent an indigent person at any stage of the criminal, postconviction, contempt, commitment under chapter 229A, or juvenile proceedings or on appeal of any criminal, postconviction, contempt, commitment under chapter 229A, or juvenile action in which the indigent person is entitled to legal assistance at public expense. However, in juvenile cases, the court may directly appoint an existing nonprofit corporation established for and engaged in the provision of legal services for juveniles. An appointment shall not be made unless the person is determined to be indigent under section 815.9. Only one attorney shall be appointed in all cases, except that in class "A" felony cases the court may appoint two attorneys.

Sec. 8. Section 815.11, Code Supplement 1999, is amended to read as follows:

815.11 APPROPRIATIONS FOR INDIGENT DEFENSE.

Costs incurred under chapter 229A, 665, or 822, or section 232.141, subsection 3, paragraph "c", or sections 814.9, 814.10, 814.11, 815.4, 815.5, 815.6, 815.7, and 815.10, or the rules of criminal procedure on behalf of an indigent shall be paid from funds appropriated by the general assembly to the office of the state public defender in the department of inspections and appeals for those purposes.

Sec. 9. Section 910.2, unnumbered paragraph 1, Code 1999, is amended to read as follows:

In all criminal cases in which there is a plea of guilty, verdict of guilty, or special verdict upon which a judgment of conviction is rendered, the sentencing court shall order that restitution be made by each offender to the victims of the offender's criminal activities, to the clerk of court for fines, penalties, surcharges, and, to the extent that the offender is reasonably able to pay, for crime victim assistance reimbursement, restitution to public agencies pursuant to section 321J.2, subsection 9, paragraph "b", court costs including correctional

fees approved pursuant to section 356.7, court-appointed attorney's fees~~, or~~ ordered pursuant to section 815.9 including the expense of a public defender when applicable, or contribution to a local anticrime organization. However, victims shall be paid in full before fines, penalties, and surcharges, crime victim compensation program reimbursement, public agencies, court costs including correctional fees approved pursuant to section 356.7, court-appointed attorney's fees, the expenses of a public defender, or contribution to a local anticrime organization are paid. In structuring a plan of restitution, the court shall provide for payments in the following order of priority: victim, fines, penalties, and surcharges, crime victim compensation program reimbursement, public agencies, court costs including correctional fees approved pursuant to section 356.7, court-appointed attorney's fees, or the expense of a public defender, and contribution to a local anticrime organization.

Sec. 10. INDIGENT DEFENSE COSTS.

1. For an attorney entitled to compensation under section 815.7 for an appointment made before July 1, 1999, the reasonable compensation shall be calculated on the basis of fifty-five dollars per hour for class "A" felonies, fifty dollars per hour for class "B" felonies, and forty-five dollars per hour for all other cases.

2. For purposes of determining the reasonable basis for compensation in juvenile cases under section 815.7, an attorney is considered appointed on the date of the first dispositional hearing or first review hearing held on or after July 1, 1999, and shall be compensated at a rate of fifty dollars per hour for and after such hearing.

Approved April 19, 2000

CHAPTER 1116

TAKING OF FISH AND GAME

H.F. 2486

AN ACT relating to the taking of fish and game by establishing residency requirements, authorizing the taking of deer and the use of certain mechanical devices for taking deer within a city, and methods of taking fish and subjecting violators to an existing penalty.

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

Section 1. Section 481A.76, Code 1999, is amended to read as follows:

481A.76 UNLAWFUL MEANS — EXCEPTION.

It is unlawful, except as otherwise provided, to use on or in the waters of the state any grabhook, snaghook, any kind of a net, seine, trap, firearm, dynamite, or other explosives, or poisonous or stupefying substances, lime, ashes, ~~or~~ electricity, or hand fishing in the taking or attempting to take any fish, except that gaffhooks or landing nets may be used to assist in landing fish. ~~A person shall not take or kill, or attempt to take or kill any fish by hand fishing. However, carp, buffalo, quillback, gar, sheepshead, dogfish, and other rough fish designated by the~~ The commission may permit designated fish to be taken by hand fishing, by snagging, by ~~spear~~ spearing, by bow and arrow, ~~day or night,~~ and with artificial light~~. The snagging of paddlefish and other game fish may be permitted~~ at ~~such~~ the times and at ~~such~~ the places as determined by rules of the commission.

Sec. 2. Section 481A.123, subsection 1, Code 1999, is amended to read as follows:

1. A person shall not discharge a firearm or shoot or attempt to shoot a game or fur-bearing animal within two hundred yards of a building inhabited by people or domestic livestock or

within two hundred yards of a feedlot unless the owner or tenant has given consent. However, within the corporate limits of a city, a person may take deer with a firearm within fifty yards of a building inhabited by people or domestic livestock, or a feedlot pursuant to an approved special deer population control plan if the person obtains permission of the owner or tenant of the building or feedlot.

Sec. 3. Section 483A.1A, subsection 4, unnumbered paragraph 1, Code 1999, is amended to read as follows:

"Resident" means a natural person who meets any of the following criteria:

Sec. 4. Section 483A.1A, subsection 4, paragraph a, Code 1999, is amended by striking the paragraph and inserting in lieu thereof the following:

a. Has physically resided in this state at least thirty consecutive days immediately before applying for or purchasing a resident license under this chapter and has been issued an Iowa driver's license or an Iowa nonoperator's identification card.

Sec. 5. Section 483A.1A, subsection 4, Code 1999, is amended by adding the following new paragraph:

NEW PARAGRAPH. d.[1] Is registered to vote in this state.

Sec. 6. NEW SECTION. 483A.2 DUAL RESIDENCY.

A resident license shall be limited to persons who do not claim any resident privileges, except as defined in section 483A.1A, subsection 4, paragraphs "b", "c", and "d", in another state or country. A person shall not purchase or apply for any resident license or permit if that person has claimed residency in any other state or country.

Sec. 7. Section 724.1, subsection 8, Code 1999, is amended to read as follows:

8. Any mechanical device specifically constructed and designed so that when attached to a firearm silences, muffles or suppresses the sound when fired. However, this subsection does not apply to a mechanical device possessed and used by a person solely for the purpose of shooting a deer pursuant to an approved city special deer population control plan if the person has a valid federal permit to possess and use the mechanical device.

Approved April 19, 2000

CHAPTER 1117

STATE AND MUNICIPAL AGENCIES — FIRE AND EMERGENCY MEDICAL SERVICES — TOWNSHIPS

H.F. 2492

AN ACT relating to certain state and municipal agencies by making changes relating to the provision of and training for fire protection service and emergency medical service and by amending the powers and duties of townships and township officers.

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

Section 1. Section 28E.31, Code 1999, is amended to read as follows:

28E.31 EMERGENCY SERVICES — CONTRACTS FOR MUTUAL AID.

1. A ~~city fire department, benefited fire district, or township~~ municipality's fire department ~~may enter into contracts providing~~ that agrees to provide for mutual aid regarding

[1] See chapter 1175, §2 herein

emergency services ~~provided by such department or district~~ shall do so in writing. The contracts that are agreed upon may provide for compensation from the parties and other terms that are agreeable to the parties and may be for an indefinite period as long as they include a sixty-day cancellation notice by any party. The contracts agreed upon shall not be entered into for the purpose of reducing the number of employees of any party.

2. A ~~city fire department, benefited fire district, or township~~ municipal fire department may provide assistance to any other such department or district in the state at the time of a significant emergency such as a fire, earthquake, flood, tornado, hazardous material incident, or other such disaster. The chief or highest ranking fire officer of an assisting department or district may render aid to a requesting department or district as long as the chief or officer is acting in accordance with the policies and procedures set forth by the governing board of the assisting department or district.

3. The chief or highest ranking officer of the ~~city fire department, benefited fire district, or township~~ municipal fire department of the district within which the incident occurs shall maintain control of the incident in accordance with the provisions of chapter 102. The chief or highest ranking officer of the department or district giving mutual aid shall be in charge of the assisting departmental or district personnel.

4. For purposes of this section, "municipality" means a city, county, township, benefited fire district, or agency formed under this chapter and authorized by law to provide emergency services.

Sec. 2. NEW SECTION. 28E.32 EMERGENCY SERVICES AGREEMENTS.

1. A municipality that agrees to provide fire protection service or emergency medical service for another municipality shall do so in writing.

2. The written agreement shall state the purposes of the agreement and the services to be provided. The agreement shall state the duration of the agreement and provide for renewal or cancellation of the agreement.

3. The 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 annual budget for services provided pursuant to the agreement and shall allocate among the parties to the agreement, responsibility to provide revenue for the amount of the budget. The budget prepared pursuant to the written agreement shall be a part of the budget of the city providing the services.

4. For purposes of this section, "municipality" means a city, county, township, benefited fire district, or agency formed under this chapter and authorized by law to provide emergency services.

Sec. 3. NEW SECTION. 55.2 LEAVE OF ABSENCE FOR VOLUNTEER EMERGENCY SERVICE.

All officers and employees of the state, other than employees employed temporarily for six months or less or those employees considered essential personnel, who are volunteer fire fighters or emergency medical service personnel shall be entitled to a leave of absence from such civil employment for the period of an emergency response without loss of status or efficiency rating, and without loss of pay during such leave of absence. Such leave of absence shall in no way affect the employee's rights to action, sick leave, bonus, or other employment benefits relating to the employee's particular employment.

Sec. 4. Section 80.9, subsection 2, paragraph c, Code 1999,[1] is amended to read as follows:

c. To investigate all fires; to apprehend persons suspected of arson; to enforce all safety measures in connection with the prevention of fires; ~~and~~ to disseminate fire-prevention education; to develop training standards and provide training to fire fighters around the state; and to address other issues related to fire service and emergency response as requested by the state fire service and emergency response council.

[1] Code Supplement 1999 probably intended

Sec. 5. Section 80.9, subsection 2, Code Supplement 1999, is amended by adding the following new paragraph:

NEW PARAGRAPH. i. Receive and review the budget submitted by the state fire marshal and the state fire service and emergency response council.

Sec. 6. Section 88.6, Code 1999, is amended by adding the following new subsection:

NEW SUBSECTION. 9. Reports of inspections and investigations involving the occupational safety and health for fire fighters shall be presented to the state fire service council.[2]

Sec. 7. Section 91.4, Code Supplement 1999, is amended by adding the following new subsection:

NEW SUBSECTION. 10. Serve as ex officio member of the state fire service and emergency response council, or appoint a designee to serve as an ex officio member of such council, to assist the council in the development of rules relating to fire fighting training standards and any other issues relating to occupational safety and health standards for fire fighters.

Sec. 8. NEW SECTION. 100B.1 STATE FIRE SERVICE AND EMERGENCY RESPONSE COUNCIL.

1. The state fire service and emergency response council is established in the division of fire protection of the department of public safety. The council shall consist of ten voting members. Members of the state fire service and emergency response council shall be appointed by the governor. The governor shall appoint members from the following organizations, chosen from a list of names submitted by each of the following organizations:

a. Two members from the Iowa firemen's association.
b. Two members from the Iowa fire chiefs' association.
c. One member from the Iowa association of professional fire fighters.
d. Two members from the Iowa association of professional fire chiefs.
e. One member from the Iowa fire fighters group.
f. One member from the Iowa emergency medical services association.

The tenth member of the council shall be a member of the general public appointed by the governor.

The labor commissioner, or the labor commissioner's designee, shall be a nonvoting ex officio member of the council. Members of the council shall hold office commencing July 1, 2000, for four years and until their successors are appointed, except that three initial appointees shall be appointed for two years, three initial appointees for three years, and four initial appointees for four years.

The fire marshal or the fire marshal's designee shall attend each meeting of the council.[3]

2. Each voting member of the council shall receive per diem compensation at the rate as specified in section 7E.6 for each day spent in the performance of the member's duties. All members of the council shall receive actual and necessary expenses incurred in the performance of their duties.

3. Six voting members of the council shall constitute a quorum. For the purpose of conducting business a majority vote of the council shall be required. The council shall elect a chairperson from its members. The council shall meet at the call of the chairperson, or the state fire marshal, or when any six members of the council file a written request with the chairperson for a meeting.

4. If a voting member of the council is absent for fifty or more percent of council meetings during any twelve-month period, the other council members by their unanimous vote may declare the member's position on the council vacant. A vacancy in the membership of the council shall be filled by appointment of the governor for the balance of the unexpired term.

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[2] See chapter 1232, §47 herein
[3] See chapter 1232, §23 herein

Sec. 9. NEW SECTION. 100B.2 DUTIES.

The state fire service and emergency response council shall:

1. Advise and confer with the state fire marshal in matters relating to fire protection services, including, but not limited to, training.

2. Cooperate with and assist agencies concerning fire emergency services matters and may, at the request of the state fire marshal or the chairperson of the council, hold public hearings for the purpose of seeking resolution of, or making recommendations on, fire services issues.

3. Develop, in consultation with the state fire marshal, the policies of the fire service training bureau of the division of fire protection.

4. Develop and submit to the state fire marshal for adoption rules establishing minimum training standards for fire service training that will be applicable statewide, periodically review these standards and offer rules as deemed appropriate.

5. Provide recommendations to the state fire marshal that will facilitate the delivery of basic level fire fighter training at the local level.

6. Provide recommendations to the state fire marshal for a fee schedule for training and consultation services as necessary for the administration of this chapter.

7. Prepare annual performance reviews of training administrators for submittal to the state fire marshal.

8. Hear testimony from the labor commissioner, or the labor commissioner's designee, on inspections and investigations involving occupational safety and health standards for fire fighters and conducted by the office of the labor commissioner.

Sec. 10. NEW SECTION. 100B.3 TRAINING AGREEMENTS.

The state fire marshal, subject to the approval of the state fire service and emergency response council, may enter into written agreements with other educational institutions to provide training in conjunction with training provided by the fire service training bureau or to assist in research conducted by the bureau.

Sec. 11. NEW SECTION. 100B.4 FEES.

Fees assessed pursuant to this chapter shall be retained by the division of fire protection and such repayments received shall be used exclusively to offset the cost of fire service training.

Notwithstanding section 8.33, repayment receipts collected by the division of fire protection for the fire service training bureau that remain unencumbered or unobligated at the close of the fiscal year shall not revert but shall remain available for expenditure for the purposes designated until the close of the succeeding fiscal year.

Sec. 12. NEW SECTION. 100B.5 BUDGET.

The state fire marshal and the state fire service and emergency response council shall prepare an annual budget for the council and the fire service training bureau. The budget shall be transmitted to the commissioner of public safety for inclusion in that department's budget.

Sec. 13. NEW SECTION. 100B.6 FIRE SERVICE TRAINING BUREAU.

1. The state fire service and emergency response council shall assist in operation of a fire service training bureau for instructing the general public and fire protection personnel throughout the state, providing service to public and private fire departments in the state, conducting research in the methods of maintaining and improving fire education consistent with the needs of Iowa communities, and performing any other functions assigned to the bureau by the state fire marshal in consultation with the state fire service and emergency response council.

2. Enrollment and attendance in fire service training bureau programs may include persons engaged with a unit of government or a public or private fire department in the state, including volunteer, trainee, or employed fire fighters.

3. Programs conducted by the fire service training bureau shall include at a minimum instruction in the subjects necessary for the certification of persons in accordance with a nationally recognized fire fighter qualification system as approved by the state fire service and emergency response council. At the direction of the state fire marshal in consultation with the state fire service and emergency response council, the fire service training bureau may develop and conduct programs which extend beyond the programs directly related to such system.

Sec. 14. NEW SECTION. 100B.7 ADMINISTRATOR — APPOINTMENT — DUTIES.

1. The administrator of the fire service training bureau shall be appointed by the commissioner of public safety, subject to the approval of the state fire service and emergency response council.

2. The state fire marshal shall direct the administrator to:

a. Provide direct oversight to the operations of the fire service training bureau.

b. Manage the budget of the fire service training bureau consistent with budgeting methods as may be required by the department of public safety or the state of Iowa.

c. Advise, confer, and consult with the state fire service and emergency response council in developing rules establishing minimum standards for fire service training.

d. Advise, confer, and consult regularly with the state fire service and emergency response council to seek input and recommendations on all facets of fire service training programs in Iowa.

e. Maintain a statewide system to provide basic level fire fighter training at the local level.

f. Distribute instructional and educational materials to support the fire training and education programs offered by the department of public safety.

g. Recruit and train qualified instructors for the training program.

h. Maintain training records as directed by the state fire marshal and necessary to accomplish the purposes of training programs.

i. Establish, with the approval of the state fire service and emergency response council, a fee schedule for training services that will ensure quality training at the most reasonable price.

j. Offer programs of education and instruction approved by the state fire service and emergency response council and conducted by qualified staff and faculty.

k. Plan and coordinate fire schools and other short courses of instruction on a statewide, regional and local level, utilizing existing educational institutions, programs, and facilities as feasible.

l. Prepare for the state fire marshal and the state fire service and emergency response council an annual report of activities that include a summary of classes taught, budget, and staff activities.

m. Provide supervision and management to the fire service training bureau staff consistent with the methods of the department of public safety and as assigned by the state fire marshal.

n. Consult with the state fire service and emergency response council in preparing an annual legislative and budgetary agenda that will address items necessary to accomplish the provisions of this chapter, and submit this agenda to the state fire marshal in a format and time frame consistent with departmental policy.

o. Develop mechanisms by which fire fighters and others may earn college credits and degrees in fire-related disciplines.

p. Develop instructional and educational materials to support the fire training and education programs offered by the council.

q. Develop and offer other programs and services consistent with the general purposes of the council.

Sec. 15. NEW SECTION. 100B.8 EMPLOYEES.
Employees of the fire service institute at Iowa state university on the effective date of this Act may elect to transfer to the department of public safety in a position and at a pay range commensurate with their duties as determined by the department of personnel, the department of public safety, and the employee's certified collective bargaining representative.

Sec. 16. NEW SECTION. 100B.9 FACILITIES AND EQUIPMENT.
The building known as the fire service institute at Iowa state university, the land upon which the building is located, and parking space associated with the building shall, until July 1, 2003, be leased by Iowa state university to the department of public safety at a cost not to exceed the actual cost of heating, lighting, and maintaining the building and parking space. In the event the department of public safety locates suitable facilities prior to that time, the lease may be terminated at the option of the department. All equipment owned by Iowa state university and used exclusively to conduct fire service training, classes, or business shall transfer on the effective date of this Act to the department of public safety unless such transfer is prohibited or restricted by law or agreement. This equipment includes, but is not limited to, breathing apparatus, fire suppression gear, mobile equipment, office furniture, computers, copying machines, library, file cabinets, and training records.
The department of public safety and the state board of regents shall enter into a written agreement pursuant to chapter 28E regarding payment of debt obligations incurred by the state board of regents on behalf of the Iowa cooperative extension service for agriculture and home economics for the lease-purchase of a mobile burn unit which is to be used by the department of public safety for fire fighter training. The written agreement shall also provide for storage of any of the equipment covered in this section at a facility owned by Iowa state university for as long as the lease for the building, land, and associated parking is in effect.

Sec. 17. NEW SECTION. 100B.10 RULES.
The state fire marshal shall adopt rules under chapter 17A for carrying out the responsibilities of this chapter.

Sec. 18. NEW SECTION. 331.385 POWERS RELATING TO EMERGENCY SERVICES.
1. A county may, by resolution, assume the exercise of the powers and duties of township trustees relating to fire protection service and emergency medical service for any township located in the unincorporated area of the county.
2. The board of supervisors shall publish notice of the proposed resolution, and of a public hearing to be held on the proposed resolution, in a newspaper of general circulation in the county at least ten days but no more than twenty days before the date of the public hearing.
3. If, after notice and hearing, the resolution is adopted, the board of supervisors shall assume the exercise of the powers and duties of township trustees relating to fire protection service and emergency medical service as set forth in sections 359.42 through 359.45. All of the real and personal township property used to provide fire protection service or emergency medical service shall be transferred to the county. The county shall assume all of the outstanding obligations of the township relating to fire protection service or emergency medical service. If the township provides fire protection outside of the county's boundaries, the county shall continue to provide fire protection to this area for at least ninety days after adoption of the resolution.
4. Fire protection service and emergency medical service shall be paid from the emergency services fund of the county authorized in section 331.424C.

Sec. 19. Section 331.421, Code 1999, is amended by adding the following new subsection:
NEW SUBSECTION. 10. "Emergency services levy" means a levy authorized and limited by section 331.424C.

Sec. 20. NEW SECTION. 331.424C EMERGENCY SERVICES FUND.

A county that is providing fire protection service or emergency medical service to a township pursuant to section 331.385 shall establish an emergency services fund and may certify taxes not to exceed sixty and three-fourths cents per one thousand dollars of the assessed value of taxable property located in the township. The county has the authority to use a portion of the taxes levied and deposited in the fund for the purpose of accumulating moneys to carry out the purposes of section 359.43, subsection 3.

Sec. 21. Section 331.502, Code 1999, is amended by adding the following new subsection:

NEW SUBSECTION. 30A. Carry out duties related to posting financial information of a township as provided in sections 359.23 and 359.49.

Sec. 22. Section 359.17, Code 1999, is amended to read as follows:

359.17 TRUSTEES — DUTIES — MEETINGS.

The board of township trustees in each township shall consist of three qualified electors 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 ~~once~~ two times a year. At least one of the meetings shall be scheduled to meet the requirements of section 359.49.

Sec. 23. Section 359.20, Code 1999, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Township records and documents, or accurate reproduction, shall be kept by the township clerk for at least five years except that:

a. Resolutions, board proceedings, records and documents, or accurate reproductions, relating to the issuance of public bonds or obligations shall be kept for at least eleven years following the final maturity of the bonds or obligations. Thereafter, such records, documents, and reproductions may be destroyed, preserving confidentiality as necessary.

b. Resolutions, board proceedings, records, and documents, or accurate reproductions, relating to real property transactions shall be maintained permanently.

Sec. 24. Section 359.23, Code 1999, is amended to read as follows:

359.23 RECEIPTS AND EXPENDITURES.

Each township clerk shall prepare, on or before September 30 of each year, a statement in writing, showing all receipts of money and disbursements in the clerk's office for each separate tax levy authorized by law for the preceding fiscal year, showing the current public debt of the township, and showing the balance as of June 30 of all separate reserve accounts held by the township, which shall be certified as correct by the trustees of the township. The statement shall be in a form prescribed by the county finance committee in consultation with the department of management. Each township clerk shall send a copy of this written statement to the county auditor no later than seven days after the statement is certified by the trustees. The county auditor shall post the statement or a summary of the statement in a prominent place in the building where the auditor's office is located. The county treasurer shall withhold disbursement of township taxes until the statement is filed with the county auditor. The county auditor shall notify the county treasurer if taxes are to be withheld.

The county auditor may waive the requirement that a township send a copy of the written financial statement to the county auditor.

Sec. 25. Section 359.43, Code 1999, is amended by adding the following new subsection:

NEW SUBSECTION. 5. Township taxes collected and disbursed by the county shall be apportioned by the clerk and paid into the separate accounts of the tax districts no later than May 31 and November 30 of each year.

TOWNSHIP FINANCES

Sec. 26. NEW SECTION. 359.49 TOWNSHIP BUDGET.

Annually, a township shall prepare and adopt a budget, and shall certify taxes as follows:

1. A budget must be prepared for at least the following fiscal year. A proposed budget must show estimates of the following:

a. Expenditures from each fund.

b. Income from sources other than property taxation.

c. Amount to be raised by property taxation, and the property tax rate expressed in dollars per one thousand dollars assessed valuation.

2. By January 15 of each year, each township fire department in the township shall provide to the board of trustees a proposed budget showing all revenues and all expenses for emergency services for the next fiscal year. By January 15 of each year, each township fire department, and each municipal fire department providing emergency services to a township, shall submit to the board of trustees a report detailing emergency services calls for the prior calendar year for the fire district and a copy of the fire report filed by the fire department with the state fire marshal's office. For purposes of this subsection, "municipal" means relating to a city, county, township, benefited fire district, or chapter 28E agency authorized by law to provide emergency services.

3. Not less than ten days before the date set for the regular meeting of the board at which objections and arguments on the budget will be heard, the clerk shall make available a sufficient number of copies of the detailed budget to meet the requests of taxpayers and organizations.

4. The board of trustees shall transmit a copy of the proposed budget to the county auditor for posting.

5. The board of trustees shall set a time and place for a regular meeting before final certification of the budget, which meeting shall provide time for comments and objections to be heard on the proposed budget. The meeting shall be held no less than ten days and no more than twenty days after the proposed budget is posted by the county auditor. The county auditor shall certify to the clerk the date of posting.

6. At the meeting, any resident or taxpayer of the township may present to the board of trustees objections to any part of the budget for the following fiscal year or arguments in favor of any part of the budget.

7. After the meeting on the proposed budget, the board of trustees shall adopt by resolution a budget for at least the next fiscal year, and the clerk shall certify the necessary tax levy for the next fiscal year to the county auditor and the county board of supervisors by March 15. The tax levy certified may be less than but shall not be more than the amount estimated in the proposed budget submitted at the meeting. Two copies each of the detailed budget as adopted and of the certified tax levy must be transmitted to the county auditor by March 15.

8. Taxes from a township levy shall be collected but not disbursed by the county to a township until copies of the township budget are transmitted to the county auditor as required in subsection 7. If a township fails to certify property taxes by March 15, the amount of taxes collected by the county for the township shall be the amount collected for the township in the previous fiscal year to the extent that it does not exceed the applicable levy rate limits in this chapter. However, that amount may not exceed the amount the township could collect based on property assessments for the fiscal year for which the township failed to certify property taxes.

9. The township budget shall be prepared on forms, and pursuant to instructions, prescribed by the county finance committee in consultation with the department of management.

Sec. 27. NEW SECTION. 359.50 BUDGET AMENDMENT.

1. A township budget as finally adopted for the following fiscal year becomes effective July 1. A township budget for the current fiscal year may be amended for any of the following purposes:

a. To permit the expenditure of unexpended, unencumbered cash balances on hand at the end of the preceding fiscal year which had not been anticipated in the budget.

b. To permit the expenditure of amounts anticipated to be available from sources other than property taxation, and which had not been anticipated in the budget.

2. A budget amendment must be prepared and adopted by May 31 of the current fiscal year.

Sec. 28. NEW SECTION. 359.51 SEPARATE ACCOUNTS.

A township shall keep separate accounts corresponding to the items in the township's adopted or amended budget. A township shall keep accounts which provide an accurate and detailed statement of all public funds collected, received, or expended for any township purpose, by any township officer, employee, or other person, and which show the receipt, use, and disposition of all township property.

Sec. 29. NEW SECTION. 359.52 DISPOSAL OF PROPERTY.

A township shall not dispose of an interest in personal property, or an interest in real property, by sale, lease, or gift, except in accordance with the following procedure:

1. The board of trustees shall set forth its proposal in a resolution and shall publish notice of the resolution and of a date, time, and place of a public hearing on the proposal. The notice shall be published in a newspaper published at least once weekly and having general circulation in the township or in the largest city in the township. The notice shall be published no less than ten days and no more than twenty days before the hearing.

2. After the public hearing, the trustees may make a final determination on the proposal by resolution.

3. A township shall not dispose of real property by gift except to a governmental body for a public purpose.

This section does not apply to the sale by a township of subdivisions or lots within a cemetery.

Sec. 30. Sections 266.40 through 266.46, Code 1999, are repealed.

Approved April 19, 2000

CHAPTER 1118

OPERATING WHILE INTOXICATED AND IGNITION INTERLOCK DEVICES

H.F. 2510

AN ACT relating to operating while intoxicated, including ignition interlock provisions.

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

Section 1. Section 321J.2, subsection 2, paragraph a, subparagraph (2), Code Supplement 1999, is amended to read as follows:

(2) Assessment of a fine of one thousand dollars. However, in the discretion of the court, if no personal or property injury has resulted from the defendant's actions, the court may waive up to five hundred dollars of the fine ~~may be waived~~ when the defendant presents to the court at the end of the minimum period of ineligibility, a temporary restricted license issued pursuant to 321J.20. As an alternative to a portion or all of the fine, the court may order the person to perform unpaid community service.

Sec. 2. Section 321J.17, Code 1999, is amended by adding the following new subsection:
NEW SUBSECTION. 3. The department shall also require certification of installation of an ignition interlock device of a type approved by the commissioner of public safety on all motor vehicles owned or operated by any person seeking reinstatement following a second or subsequent conviction for a violation of section 321J.2, unless such a person has previously received a temporary restricted license as authorized by this chapter. The requirement for the installation of an approved ignition interlock device shall be for one year unless a different time period is required by statute.

Approved April 19, 2000

CHAPTER 1119

DOMESTIC ABUSE ACTIONS — PLAINTIFF'S MAILING ADDRESS

H.F. 2522

AN ACT relating to addresses used by persons seeking relief from domestic abuse.

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

Section 1. Section 236.3, subsections 1 and 2, Code 1999, are amended to read as follows:
1. Name of the plaintiff and the name and address of the plaintiff's attorney, if any. If the plaintiff is proceeding pro se, the petition shall state a mailing address for the plaintiff. A mailing address may be provided by the plaintiff pursuant to section 236.10.
2. Name and address of the parent or guardian filing the petition, if the petition is being filed on behalf of an unemancipated minor. For the purposes of this chapter, "plaintiff" includes a person filing an action on behalf of an unemancipated minor. A mailing address may be provided by the plaintiff pursuant to section 236.10.

Sec. 2. Section 236.10, Code 1999, is amended to read as follows:
236.10 CONFIDENTIALITY OF RECORDS.
1. A person seeking relief from domestic abuse under this chapter may use any of the following addresses as a mailing address for purposes of filing a petition under this chapter, as well as for the purpose of obtaining any utility or other service:
a. The mailing address of a shelter or other agency.
b. A public or private post office box.
c. Any other mailing address, with the permission of the resident of that address.
2. A person shall report any change of address, whether designated according to subsection 1 or otherwise, to the clerk of court no more than five days after the previous address on record becomes invalid.
3. The file in a domestic abuse case shall be sealed by the clerk of court when it is complete and after the time for appeal has expired. However, the clerk shall open the file upon application to and order of the court for good cause shown or upon request of the child support recovery unit. Support payment records, whether maintained by the clerk of the district court or the department of human services, are public records and may be released upon request. However, a payment record shall not include address or location information.

Approved April 19, 2000

CHAPTER 1120

HEALTH INSURANCE COVERAGE OF PRESCRIPTION CONTRACEPTIVES

S.F. 2126

AN ACT relating to third-party payment of health care coverage costs for prescription contraceptive drugs, devices, and services.

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

Section 1. NEW SECTION. 514C.19 PRESCRIPTION CONTRACEPTIVE COVERAGE.

1. Notwithstanding the uniformity of treatment requirements of section 514C.6, a group policy or contract providing for third-party payment or prepayment of health or medical expenses shall not do either of the following:

a. Exclude or restrict benefits for prescription contraceptive drugs or prescription contraceptive devices which prevent conception and which are approved by the United States food and drug administration, or generic equivalents approved as substitutable by the United States food and drug administration, if such policy or contract provides benefits for other outpatient prescription drugs or devices.

b. Exclude or restrict benefits for outpatient contraceptive services which are provided for the purpose of preventing conception if such policy or contract provides benefits for other outpatient services provided by a health care professional.

2. A person who provides a group policy or contract providing for third-party payment or prepayment of health or medical expenses which is subject to subsection 1 shall not do any of the following:

a. Deny to an individual eligibility, or continued eligibility, to enroll in or to renew coverage under the terms of the policy or contract because of the individual's use or potential use of such prescription contraceptive drugs or devices, or use or potential use of outpatient contraceptive services.

b. Provide a monetary payment or rebate to a covered individual to encourage such individual to accept less than the minimum benefits provided for under subsection 1.

c. Penalize or otherwise reduce or limit the reimbursement of a health care professional because such professional prescribes contraceptive drugs or devices, or provides contraceptive services.

d. Provide incentives, monetary or otherwise, to a health care professional to induce such professional to withhold from a covered individual contraceptive drugs or devices, or contraceptive services.

3. This section shall not be construed to prevent a third-party payor from including deductibles, coinsurance, or copayments under the policy or contract, as follows:

a. A deductible, coinsurance, or copayment for benefits for prescription contraceptive drugs shall not be greater than such deductible, coinsurance, or copayment for any outpatient prescription drug for which coverage under the policy or contract is provided.

b. A deductible, coinsurance, or copayment for benefits for prescription contraceptive devices shall not be greater than such deductible, coinsurance, or copayment for any outpatient prescription device for which coverage under the policy or contract is provided.

c. A deductible, coinsurance, or copayment for benefits for outpatient contraceptive services shall not be greater than such deductible, coinsurance, or copayment for any outpatient health care services for which coverage under the policy or contract is provided.

4. This section shall not be construed to require a third-party payor under a policy or contract to provide benefits for experimental or investigational contraceptive drugs or devices, or experimental or investigational contraceptive services, except to the extent that such policy or contract provides coverage for other experimental or investigational outpatient prescription drugs or devices, or experimental or investigational outpatient health care services.

5. This section shall not be construed to limit or otherwise discourage the use of generic equivalent drugs approved by the United States food and drug administration, whenever available and appropriate. This section, when a brand name drug is requested by a covered individual and a suitable generic equivalent is available and appropriate, shall not be construed to prohibit a third-party payor from requiring the covered individual to pay a deductible, coinsurance, or copayment consistent with subsection 3, in addition to the difference of the cost of the brand name drug less the maximum covered amount for a generic equivalent.

6. A person who provides an individual policy or contract providing for third-party payment or prepayment of health or medical expenses shall make available a coverage provision that satisfies the requirements in subsections 1 through 5 in the same manner as such requirements are applicable to a group policy or contract under those subsections. The policy or contract shall provide that the individual policyholder may reject the coverage provision at the option of the policyholder.

7. a. This section applies to the following classes of third-party payment provider contracts or policies delivered, issued for delivery, continued, or renewed in this state on or after July 1, 2000:

(1) Individual or group accident and sickness insurance providing coverage on an expense-incurred basis.

(2) An individual or group hospital or medical service contract issued pursuant to chapter 509, 514, or 514A.

(3) An individual or group health maintenance organization contract regulated under chapter 514B.

(4) Any other entity engaged in the business of insurance, risk transfer, or risk retention, which is subject to the jurisdiction of the commissioner.

(5) A plan established pursuant to chapter 509A for public employees.

(6) An organized delivery system licensed by the director of public health.

b. This section shall not apply to accident only, specified disease, short-term hospital or medical, hospital confinement indemnity, credit, dental, vision, Medicare supplement, long-term care, basic hospital and medical-surgical expense coverage as defined by the commissioner, disability income insurance coverage, coverage issued as a supplement to liability insurance, workers' compensation or similar insurance, or automobile medical payment insurance.

Approved April 20, 2000

CHAPTER 1121

JUVENILE FACILITY EDUCATION COSTS

S.F. 2294

AN ACT relating to payment of education costs for certain juvenile facilities and providing an effective date.

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

Section 1. Section 282.30, subsection 1, paragraph b, unnumbered paragraph 2, Code 1999, is amended to read as follows:

c. An area education agency shall not provide educational services to a facility specified in paragraph "a" unless the facility makes a request for educational services to the area education agency by either of the following dates:

(1) December 1 of the school year prior to the beginning of the school year for which the services are being requested.

(2) Ninety days prior to the beginning of the time for which the services are being requested if the facility is a newly established facility.

Sec. 2. EFFECTIVE DATE — FACILITIES FOR 1999-2000 SCHOOL YEAR. Section 1 of this Act, amending section 282.30 and relating to educational services provided to a facility by an area education agency, being deemed of immediate importance, takes effect upon enactment. A facility described in section 282.30, subsection 1, paragraph "a", that was initially established and approved or licensed after December 1, 1998, and that made a written request to the area education agency for educational services at least ninety days prior to the placement of children at the facility, shall be reimbursed by the department of revenue and finance for the facility's costs of providing the appropriate educational services to children placed at the facility for the 1999-2000 school year. The reimbursable costs shall be approved pursuant to section 282.31 and applicable administrative rules. Any amount paid by the department of revenue and finance shall be deducted monthly from the state foundation aid paid under section 257.16 to all school districts in the state during the subsequent fiscal year.

Approved April 20, 2000

CHAPTER 1122

DNA PROFILING

S.F. 2324

AN ACT relating to DNA profiling.

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

Section 1. Section 13.10, Code 1999, is amended to read as follows:

13.10 PHYSICAL CRIMINAL EVIDENCE — DNA PROFILING.

1. The attorney general shall adopt rules in consultation with the division of criminal investigation, department of public safety, for the purpose of classifying felonies and indictable misdemeanors which shall require the offender to submit a physical specimen for DNA profiling upon confinement in or prior to release from a county jail, upon commitment to the custody of the director of the department of corrections or, prior to discharge of sentence or, as a condition of probation~~, parole, or work release~~. Factors to be considered shall include the deterrent effect of DNA profiling, the likelihood of repeated violations, and the seriousness of the offense. The offenses that require the offender to submit a physical specimen for DNA profiling shall include but are not limited to the following:

a. Murder in violation of section 707.2 or 707.3.

b. Attempt to commit murder in violation of section 707.11.

c. Kidnapping in violation of section 710.1, 710.2, or 710.3.

d. Sexual abuse in violation of sections 709.2, 709.3, or 709.4.

e. Assault with intent to commit sexual abuse in violation of section 709.11.

f. Assault while participating in a felony in violation of section 708.3.

g. Burglary in the first degree in violation of section 713.3.

2. ~~Upon appropriation or receipt of sufficient funds, the~~ The division of criminal investigation shall carry out DNA profiling of submitted physical specimens. The division may contract with private entities for DNA profiling. "DNA profiling" means the procedure established by the division of criminal investigation, department of public safety, for determining a person's genetic identity.

Sec. 2. Section 901.2, unnumbered paragraph 2, Code Supplement 1999, is amended by striking the unnumbered paragraph.

Sec. 3. Section 901.5, Code 1999, is amended by adding the following new subsection:
NEW SUBSECTION. 8A. a. The court shall order DNA profiling of a defendant convicted of an offense that requires profiling under section 13.10.
b. Notwithstanding section 13.10, the court may order the defendant to provide a physical specimen to be submitted for DNA profiling if appropriate. In determining the appropriateness of ordering DNA profiling, the court shall consider the deterrent effect of DNA profiling, the likelihood of repeated offenses by the defendant, and the seriousness of the offense.

Sec. 4. Section 906.4, unnumbered paragraph 2, Code 1999, is amended to read as follows:
~~Notwithstanding section 13.10, the board may determine if the defendant shall be required to provide a physical specimen to be submitted for DNA profiling as a condition of parole or work release. The board shall consider the deterrent effect of DNA profiling, the likelihood of repeated violations by the offender, and the seriousness of the offense. When funds have been allocated from the general fund of the state, or funds have been provided by other public or private sources, the board shall order DNA profiling if appropriate.~~ Notwithstanding section 13.10, the board may order the defendant to provide a physical specimen to be submitted for DNA profiling as a condition of parole or work release, if appropriate. In determining the appropriateness of ordering DNA profiling, the board shall consider the deterrent effect of DNA profiling, the likelihood of repeated offenses by the defendant, and the seriousness of the offense.

Approved April 20, 2000

CHAPTER 1123

INTERAGENCY SHARING OF CONFIDENTIAL INFORMATION

S.F. 2369

AN ACT relating to the sharing of juvenile court social records, child abuse records, or other information.

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

Section 1. Section 217.30, subsection 4, paragraph b, Code 1999, is amended to read as follows:
b. Confidential information described in subsection 1, paragraphs "a," "b", and "c", shall be disclosed to public officials, for use in connection with their official duties relating to law enforcement, audits and other purposes directly connected with the administration of such programs, upon written application to and with approval of the director or the director's designee. Confidential information described in subsection 1 paragraphs "a", "b", and "c",

shall also be disclosed to public officials, for use in connection with their official duties relating to the support and protection of children and families, upon written application to and with the approval of the director or the director's designee.

Sec. 2. Section 232.147, Code 1999, is amended by adding the following new subsection:

NEW SUBSECTION. 5A. Social records prior to adjudication may be disclosed without court order, to the superintendent or superintendent's designee of a school district, authorities in charge of an accredited nonpublic school, or any other state or local agency that are part of the juvenile justice system, in accordance with an interagency agreement established under section 280.25. The disclosure shall only include identifying information that is necessary to fulfill the purpose of the disclosure. The social records disclosed shall be used solely for the purpose of determining the programs and services appropriate to the needs of the child or the family of the child and shall not be disclosed for any other purpose unless otherwise provided by law.

Sec. 3. Section 235A.15, subsection 2, paragraph b, subparagraph (4), Code Supplement 1999, is amended to read as follows:

(4) To a multidisciplinary team, or to parties to an interagency agreement entered into pursuant to section 280.25, if the department of human services approves the composition of the multidisciplinary team or the relevant provisions of the interagency agreement and determines that access to the team or to the parties to the interagency agreement is necessary to assist the department in the diagnosis, assessment, and disposition of a child abuse case.

Sec. 4. Section 280.25, Code 1999, is amended to read as follows:

280.25 INFORMATION SHARING — INTERAGENCY AGREEMENTS.

1. The board of directors of each public school and the authorities in charge of each accredited nonpublic school shall adopt a policy and the superintendent of each public school shall adopt rules which provide that the school district or school may share information contained within a student's permanent record pursuant to an interagency agreement with state and local agencies that are part of the juvenile justice system ~~including the~~. These agencies include but are not limited to, juvenile court services, the department of human services, and local law enforcement authorities. The disclosure of information shall be directly related to the juvenile justice system's ability to effectively serve, prior to adjudication, the student whose records are being released.

2. The purpose of the agreement shall be to reduce juvenile crime by promoting cooperation and collaboration and the sharing of appropriate information ~~between~~ among the parties in a joint effort to improve school safety, reduce alcohol and illegal drug use, reduce truancy, reduce in-school and out-of-school suspensions, and to support alternatives to in-school and out-of-school suspensions and expulsions which provide structured and well-supervised educational programs supplemented by coordinated and appropriate services designed to correct behaviors that lead to truancy, suspension, and expulsions and to support students in successfully completing their education.

3. Information shared under the agreement shall be used solely for determining the programs and services appropriate to the needs of the juvenile or the juvenile's family, or coordinating the delivery of programs and services to the juvenile or the juvenile's family.

4. Information shared by the school district or school under the agreement is not admissible in any court proceedings which take place prior to a disposition hearing, unless written consent is obtained from a student's parent, guardian, or legal or actual custodian.

5. Information shared by another party to the agreement with a school district or school pursuant to an interagency agreement shall not be used as a basis for a school disciplinary action against a student.

6. The interagency agreement shall provide, and each signatory agency to the agreement shall certify in the agreement, that confidential information shared ~~between~~ among the parties to the agreement shall remain confidential and shall not be shared with any other person, school, school district, or agency, unless otherwise provided by law.

7. Juvenile court social records may be disclosed in accordance with section 232.147, subsection 5A.

8. A school or school district entering into an interagency agreement under this section shall adopt a policy implementing the provisions of the interagency agreement. The policy shall include, but not be limited to, the provisions of the interagency agreement and the procedures to be used by the school or school district to share information from the student's permanent record with participating agencies. The policy shall be published in the student handbook.

Approved April 20, 2000

CHAPTER 1124

LOTTERY COMPACTS OR AGREEMENTS

S.F. 2443

AN ACT relating to compacts or agreements entered into by the Iowa lottery board and commissioner of the lottery.

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

Section 1. Section 99E.9, subsection 4, Code Supplement 1999, is amended to read as follows:

4. The board and the commissioner may enter into written agreements or compacts with another state or ~~states~~ a territory of the United States, or one or more political subdivisions of another state or ~~states~~ territory of the United States, or any lottery operated outside the United States for the operation, marketing, and promotion of a joint lottery or joint lottery games. For the purposes of this subsection, any lottery with which the board and commissioner reach an agreement or compact shall meet the criteria for security, integrity, and finance set by the board.

Approved April 20, 2000

CHAPTER 1125

CHILD SUPPORT — LIENS — MOTOR VEHICLE
REGISTRATION — INCOME WITHHOLDING

H.F. 2135

AN ACT relating to support obligations and providing an effective date.

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

Section 1. Section 252B.22, Code 1999, is amended to read as follows:

252B.22 ~~STATEWIDE SUPPORT LIEN INDEX~~ LIENS — MOTOR VEHICLE REGISTRATION — TASK FORCE.

1. The child support recovery unit created in this chapter shall establish a task force to assist in the development and implementation of ~~a plan for a statewide support lien index.~~ all of the following: ~~The unit, in consultation with the task force, may recommend additional statutory changes to the general assembly by January 1, 1999, to facilitate implementation of a statewide index.~~

~~2. The plan shall provide for an index pertaining to any person against whom a support judgment is entered, registered, or otherwise filed with a court in this state, against whom the unit is enforcing a support judgment, or against whom an interstate lien form promulgated by the United States secretary of health and human services is filed. The plan shall also provide for implementation and administration of an automated statewide support lien index, access to at least one location in every county, and the development of procedures to periodically update the lien information.~~

a. The filing of notices of liens and actions to release liens.

b. The process for delaying the renewal of a motor vehicle registration due to a support delinquency and recommendations for additional statutory changes to the general assembly.

~~3.~~ 2. Members of the task force may include, but shall not be limited to, representatives, appointed by the respective entity, of the Iowa land title association, the Iowa realtors' association, the Iowa state bar association, the Iowa county recorders' association, the Iowa clerks of court association, the Iowa county treasurers' association, the Iowa automobile dealers' association, the Iowa bankers association, the Iowa recreational vehicle dealers' association, the independent automobile dealers' association of Iowa, the Iowa mortgage bankers' association, the Iowa motorcycle association, the Iowa credit union league, department of revenue and finance, state department of transportation, the office of the secretary of state, the office of the state court administrator, and other constituency groups and agencies which have an interest in a statewide support lien index to the record liens. Appointments are not subject to sections 69.16 and 69.16A. Vacancies shall be filled by the original appointment authority and in the manner of the original appointments.

Sec. 2. Section 252D.17, subsection 6, Code 1999, is amended to read as follows:

6. The payor may combine amounts withheld from the obligors' income in a single payment to the clerk of the district court or to the collection services center, as appropriate. Whether combined or separate, payments shall be identified by the name of the obligor, account number, amount, and~~, until October 1, 1999,~~ the date withheld. If payments for multiple obligors are combined, the portion of the payment attributable to each obligor shall be specifically identified.

Sec. 3. RESCINDING OF RULES. The department of human services shall rescind any administrative rules in conflict with this Act.

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

Approved April 20, 2000

CHAPTER 1126

DRUG POLICY COORDINATION

H.F. 2153

AN ACT relating to drug policy coordination, including establishment of a drug policy coordinator, the governor's office of drug control policy, and a drug policy advisory council.

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

Section 1. Section 80E.1, subsection 1, Code 1999, is amended to read as follows:

1. A drug ~~enforcement and abuse prevention~~ policy coordinator 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 coordinator shall be selected primarily for administrative ability. The coordinator shall not be selected on the basis of political affiliation and shall not engage in political activity while holding the office. The salary of the coordinator shall be fixed by the governor.

Sec. 2. Section 80E.1, subsection 2, paragraph a, Code 1999, is amended to read as follows:

a. ~~Coordinate~~ Direct the governor's office of drug control policy, and coordinate and monitor all statewide narcotics enforcement efforts, coordinate and monitor all state and federal substance abuse treatment grants and programs, coordinate and monitor all statewide substance abuse prevention and education programs in communities and schools, and engage in such other related activities as required by law. The coordinator shall work in coordinating the efforts of the department of corrections, the department of education, the Iowa department of public health, the department of public safety, and the department of human services. The coordinator shall assist in the development and implementation of local and community strategies to fight substance abuse, including local law enforcement, education, and treatment activities.

Sec. 3. Section 80E.2, subsection 1, Code 1999, is amended to read as follows:

1. An Iowa drug ~~abuse prevention and education~~ policy advisory council is established which shall consist of the following ~~nine~~ fifteen members:

a. The drug ~~enforcement and abuse prevention~~ policy coordinator, who shall serve as chairperson of the council.

b. The director of the department of corrections, or the director's designee.

c. The director of the department of education, or the director's designee.

d. The director of the Iowa department of public health, or the director's designee.

e. The commissioner of public safety, or the commissioner's designee.

f. The director of the department of human services, or the director's designee.

ff. The director of the division of criminal and juvenile justice planning, in the department of human rights, or the division director's designee.

g. A prosecuting attorney.

h. A licensed substance abuse treatment specialist.

i. A ~~law enforcement officer~~ certified substance abuse prevention specialist.

j. A substance abuse treatment program director.

k. A justice of the Iowa supreme court, or judge, as designated by the chief justice of the supreme court.

l. A member representing the Iowa association of chiefs of police and peace officers.

m. A member representing the Iowa state police association.

n. A member representing the Iowa state sheriffs' and deputies' association.

The prosecuting attorney, licensed substance abuse treatment specialist, certified substance abuse prevention specialist, substance abuse treatment program director, member representing the Iowa association of chiefs of police and peace officers, member representing the Iowa state police association, and ~~law enforcement officer~~ the member representing the Iowa state sheriffs' and deputies' association shall be appointed by the governor, subject to senate confirmation, for four-year terms beginning and ending as provided in section 69.19. A vacancy on the council shall be filled for the unexpired term in the same manner as the original appointment was made.

Sec. 4. Section 80E.2, subsection 2, Code 1999, is amended to read as follows:

2. The council shall make policy recommendations to the appropriate departments concerning the administration, development, and coordination of programs related to substance abuse education, prevention, ~~and~~ treatment, and enforcement.

Sec. 5. Section 232.190, subsection 1, Code 1999, is amended to read as follows:

1. A community grant fund is established in the state treasury under the control of the division of criminal and juvenile justice planning of the department of human rights for the purposes of awarding grants under this section. The criminal and juvenile justice planning advisory council and the juvenile justice advisory council shall assist the division in administering grants awarded under this section. The departments of education, human services, public health, and public safety, and the governor's ~~alliance on substance abuse~~ office of drug control policy shall advise the division on grant application and selection criteria and performance measures for the programs. Not more than five percent of the moneys appropriated to the fund shall be used for administrative purposes.

Sec. 6. Section 235C.2, subsection 13, Code Supplement 1999, is amended to read as follows:

13. A representative from the governor's ~~alliance on substance abuse~~ office of drug control policy selected by the ~~alliance~~ office.

Sec. 7. Section 256.41, subsection 9, Code 1999, is amended to read as follows:

9. The drug ~~enforcement and abuse prevention~~ policy coordinator shall serve as an ex officio and nonvoting member.

Sec. 8. Section 80E.3, Code 1999, is repealed.

Approved April 20, 2000

CHAPTER 1127

LEWIS AND CLARK BICENTENNIAL

H.F. 2424

AN ACT creating an Iowa Lewis and Clark bicentennial commission, an Iowa Lewis and Clark bicentennial fund, and providing an effective date.

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

Section 1. NEW SECTION. 15.221 IOWA LEWIS AND CLARK BICENTENNIAL COMMISSION.

1. The Iowa Lewis and Clark bicentennial commission is established in the department of economic development for purposes of coordinating and promoting the observance of this state's bicentennial commemoration of the Lewis and Clark expedition. The commission shall be organized and shall operate as a nonprofit corporation within this state in accordance with chapter 504A.

2. The commission shall be composed of seven members consisting of all of the following:

a. The director of the department of cultural affairs or the director's designee.

b. The administrator of the division of tourism within the department of economic development, or the administrator's designee.

c. The administrator of the parks and preserves division within the department of natural resources, or the administrator's designee.

d. The administrator of the historical division within the department of cultural affairs, or the administrator's designee.

e. The remaining three members shall be appointed by the governor, subject to confirmation by the senate. The members appointed by the governor shall have an interest or expertise in the history of the Lewis and Clark expedition. At least one of the members appointed by the governor shall be a member of an Indian tribe encountered by the Lewis and Clark expedition.

3. The members appointed by the governor shall be appointed in compliance with sections 69.16 and 69.16A and shall serve three-year terms beginning and ending as provided by section 69.19. Members appointed by the governor may be reappointed.

4. The commission shall annually elect a chairperson and vice chairperson from the members of the commission.

5. Commission members shall serve without compensation, but shall be reimbursed for actual and necessary expenses.

Sec. 2. NEW SECTION. 15.222 POWERS.

The commission may do all of the following:

1. Cooperate with other entities conducting national, regional, state, or local events promoting the bicentennial.

2. Plan, assist, coordinate, or conduct bicentennial events.

3. Engage in fund-raising activities, including revenue-earning enterprises and the solicitation of grants, gifts, and donations.

4. Promote public education concerning the Lewis and Clark expedition.

5. Coordinate interagency participation in the observance and work with appropriate federal entities such as the national park service, the United States forest service, and the United States army.

6. Appoint various local and regional advisory committees.

7. Perform any other related duties.

Sec. 3. NEW SECTION. 15.223 IOWA LEWIS AND CLARK BICENTENNIAL FUND.

An Iowa Lewis and Clark bicentennial fund is created as a separate fund in the state treasury under the control of the commission. The assets of the fund shall be used by the commission only for carrying out the purposes of this part. The fund shall consist of any moneys appropriated by the general assembly for that purpose and any other moneys available to and obtained or accepted by the commission for placement in the fund. Notwithstanding section 8.33, moneys in the Iowa Lewis and Clark bicentennial fund at the end of each fiscal year shall not revert to any other fund but shall remain in the Lewis and Clark bicentennial fund for expenditure for subsequent fiscal years.

Sec. 4. NEW SECTION. 15.224 RULES.

The department, in cooperation with the commission, may adopt administrative rules pursuant to chapter 17A necessary to accomplish the purpose of the commission.

Sec. 5. NEW SECTION. 15.225 TERMINATION.

The Iowa Lewis and Clark bicentennial commission shall dissolve by December 31, 2007.

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

Approved April 20, 2000

CHAPTER 1128

RESOURCE ENHANCEMENT AND PROTECTION
FUND — SOIL AND WATER ENHANCEMENT ACCOUNT

H.F. 2485

AN ACT relating to the allocation of funds within the soil and water enhancement account of the resource enhancement and protection fund.

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

Section 1. Section 455A.19, subsection 1, paragraph c, Code 1999, is amended to read as follows:

c. Twenty percent shall be allocated to the soil and water enhancement account. The moneys shall be used to carry out soil and water enhancement programs including, but not limited to, reforestation, woodland protection and enhancement, wildlife habitat preservation and enhancement, protection of highly erodible soils, and clean water programs. The division of soil conservation, by rule, shall establish procedures for eligibility, application, review, and selection of projects and practices to implement the requirements of this paragraph. There is appropriated from the soil and water enhancement account to the soil conservation division the amount in that account, or so much thereof as is necessary, to carry out the programs as specified in this paragraph. Remaining funds of the soil and water ~~conservation~~ enhancement account shall be allocated to the accounts of the water protection fund authorized in section 161C.4. Annually, fifty percent of the soil and water enhancement account funds~~, not to exceed one million dollars,~~ shall be allocated to the water quality protection projects account. The balance of the funds shall be allocated to the water protection practices account. An appropriation made under this paragraph shall continue in force for two fiscal years after the fiscal year in which the appropriation was made or until completion of the project for which the appropriation was made, whichever date is earlier. All unencumbered or unobligated funds remaining at the close of the fiscal year in which the project is completed or at the close of the third fiscal year, whichever date is earlier, shall revert to the soil and water enhancement account.

Approved April 20, 2000

CHAPTER 1129

MEDIATION OF FARM DISPUTES

H.F. 2521

AN ACT relating to mandatory mediation of certain farm disputes prior to initiation of related litigation.

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

Section 1. Section 654A.6, subsection 1, Code 1999, is amended to read as follows:

1. a. A creditor subject to this chapter desiring to initiate a proceeding to enforce a debt against agricultural property which is real estate under chapter 654, to forfeit a contract to purchase agricultural property under chapter 656, to enforce a secured interest in agricul-

tural property under chapter 554, or to otherwise garnish, levy on, execute on, seize, or attach agricultural property, shall file a request for mediation with the farm mediation service. The creditor shall not begin the proceeding subject to this chapter until the creditor receives a mediation release, or until the court determines after notice and hearing that the time delay required for the mediation would cause the creditor to suffer irreparable harm. Title to land that is agricultural property is not affected by the failure of any creditor to receive a mediation release regardless of its validity. The time period for the notice of right to cure provided in section 654.2A shall run concurrently with the time period for the mediation period provided in this section and section 654A.10.

b. The requirements of paragraph "a" are jurisdictional prerequisites to a creditor filing a civil action that initiates a proceeding subject to this chapter.

Sec. 2. Section 654B.3, subsection 1, Code 1999, is amended to read as follows:

1. a. A person who is a farm resident, or other party, desiring to initiate a civil proceeding to resolve a dispute, shall file a request for mediation with the farm mediation service. The person shall not begin the proceeding until the person receives a mediation release, or until the court determines after notice and hearing that one of the following applies:

~~a.~~ (1) The time delay required for the mediation would cause the person to suffer irreparable harm.

~~b.~~ (2) The dispute involves a claim which has been brought as a class action.

b. The requirements of paragraph "a" are jurisdictional prerequisites to a person filing a civil action that initiates a civil proceeding to resolve a dispute subject to this chapter.

Approved April 20, 2000

CHAPTER 1130

GAMES AND RAFFLES

S.F. 2143

AN ACT relating to the eligibility of certain school organizations to conduct games and raffles and the disposition of receipts from games and raffles.

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

Section 1. Section 99B.1, Code 1999, is amended by adding the following new subsection:

NEW SUBSECTION. 24. "Unrelated entity" means a person that has a separate and distinct state charter and tax identification number from any other person, and, if the person is an individual, an individual that is not related by law or by consanguinity.

Sec. 2. Section 99B.7, subsection 1, paragraph m, subparagraph (1), Code 1999, is amended to read as follows:

(1) The organization is eligible for exemption from federal income taxes under section 501(c)(3), 501(c)(4), 501(c)(5), 501(c)(6), 501(c)(7), 501(c)(8), 501(c)(10), or 501(c)(19) of the Internal Revenue Code as defined in section 422.3, or in lieu of eligibility for exemption from federal income taxes, the organization is a parent-teacher organization or booster club that is recognized as a fund-raiser and supporter for a school district organized pursuant to chapter 274 or for a school within the school district, in a notarized letter signed by the president of the board of directors, the superintendent of the school district, or a principal of a school within that school district.

Sec. 3. Section 99B.7, Code 1999, is amended by adding the following new subsection:
NEW SUBSECTION. 3A. If a licensee derives ninety percent or more of its total income from conducting bingo, raffles, or small games of chance, at least seventy-five percent of the licensee's net receipts shall be distributed to an unrelated entity for an educational, civic, public, charitable, patriotic, or religious use.

Approved April 21, 2000

CHAPTER 1131

CRIMINAL DEFENDANTS — APPEARANCE — RELEASE

S.F. 2146

AN ACT relating to the appearance in court and the release from custody of certain criminal defendants.

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

Section 1. Section 805.6, subsection 1, paragraph c, Code 1999, is amended by adding the following new subparagraph before subparagraph (1):
NEW SUBPARAGRAPH. (0) If the offense is one to which an assessment of a minimum fine is applicable and the entry is otherwise not prohibited by this section, an amount equal to one and one-half times the minimum fine plus court costs.

Sec. 2. Section 805.6, subsection 1, paragraph c, subparagraph (3), Code 1999, is amended to read as follows:
(3) If the violation is for any offense for which a court appearance is mandatory, and an assessment of a minimum fine is not applicable, the amount of one hundred dollars plus court costs.

Sec. 3. Section 805.6, subsection 1, paragraph d, Code 1999, is amended to read as follows:
d. The written appearance defined in paragraph "b" shall not be used for any offense other than a simple misdemeanor and shall not be used for any offense under section 321.218 or 321A.32.

Sec. 4. Section 805.10, subsection 1, Code 1999, is amended to read as follows:
1. When the violation charged involved or resulted ~~in an accident or injury to property and the total damages are one thousand dollars or more, or~~ in ~~an~~ a death or caused serious injury to person as defined under section 702.18.

Sec. 5. Section 805.10, Code 1999, is amended by adding the following new subsection:
NEW SUBSECTION. 1A. When the violation charged involved or resulted in an accident or injury to property and based upon the violator's driving record, or failure to pay any fine, surcharge, or court costs, or any other circumstances involving the accident, the officer determines a court appearance is necessary.

Sec. 6. Section 811.2, subsection 2, Code Supplement 1999, is amended to read as follows:

2. DETERMINATION OF CONDITIONS. In determining which conditions of release will reasonably assure the defendant's appearance and the safety of another person or persons, the magistrate shall, on the basis of available information, take into account the nature and circumstances of the offense charged, the defendant's family ties, employment, financial resources, character and mental condition, the length of the defendant's residence in the community, the defendant's record of convictions, including the defendant's failure to pay any fine, surcharge, or court costs, and the defendant's record of appearance at court proceedings or of flight to avoid prosecution or failure to appear at court proceedings.

Approved April 21, 2000

CHAPTER 1132

DOMESTIC ABUSE RECORDS AND ELECTRONIC HARRASSMENT

S.F. 2308

AN ACT relating to domestic violence protective orders and harassment via electronic communications and making penalties applicable.

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

Section 1. Section 236.10, Code 1999, is amended to read as follows:

236.10 CONFIDENTIALITY OF RECORDS.

1. The entire file or a portion of the file in a domestic abuse case shall be sealed by the clerk of court ~~when it is complete and after the time for appeal has expired~~ as ordered by the court to protect the privacy interest or safety of any person. ~~However, the clerk shall open the file upon application to and order of the court for good cause shown or upon request of the child support recovery unit. Support payment records, whether maintained by the clerk of the district court or the department of human services, are public records and may be released upon request. However, a payment record shall not include address or location information.~~

2. Notwithstanding subsection 1, court orders and support payment records shall remain public records, although the court may order that address and location information be redacted from the public records.

Sec. 2. Section 236.19, Code Supplement 1999, is amended to read as follows:

236.19 FOREIGN PROTECTIVE ORDERS — REGISTRATION — ENFORCEMENT.

1. As used in this section, "foreign protective order" means a protective order entered ~~in a state other than Iowa which~~ by a court of another state, Indian tribe, or United States territory that would be an order or court-approved consent agreement entered under this chapter, a temporary or permanent protective order or order to vacate the homestead under chapter 598, 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 if it had been entered in Iowa.

2. A certified or authenticated copy of a permanent foreign protective order ~~authenticated in accordance with the statutes of this state~~ may be filed with the clerk of the district court in any county that would have venue if the original action was being commenced in this state or in which the person in whose favor the order was entered may be present.

a. The clerk shall file foreign protective orders that are not certified or authenticated, if supported by an affidavit of a person with personal knowledge, subject to the penalties for perjury. The person protected by the order may provide this affidavit.

b. The clerk shall provide copies of the order as required by section 236.5, except that notice shall not be provided to the respondent without the express written direction of the person in whose favor the order was entered.

3. a. A valid foreign protective order ~~so filed~~ has the same effect and shall be enforced in the same manner as a protective order issued in this state whether or not filed with a clerk of court or otherwise placed in a registry of protective orders.

b. A foreign protective order is valid if it meets all of the following:

(1) The order states the name of the protected individual and the individual against whom enforcement is sought.

(2) The order has not expired.

(3) The order was issued by a court or tribunal that had jurisdiction over the parties and subject matter under the law of the foreign jurisdiction.

(4) The order was issued in accordance with respondent's due process rights, either after the respondent was provided with reasonable notice and an opportunity to be heard before the court or tribunal that issued the order, or in the case of an ex parte order, the respondent was granted notice and opportunity to be heard within a reasonable time after the order was issued.

c. Proof that a foreign protective order failed to meet all of the factors listed in paragraph "b" shall be an affirmative defense in any action seeking enforcement of the order.

4. A peace officer shall treat a foreign protective order as a valid legal document and shall make an arrest for a violation of the foreign protective order in the same manner that a peace officer would make an arrest for a violation of a protective order issued within this state.

a. The fact that a foreign protective order has not been filed with the clerk of court or otherwise placed in a registry shall not be grounds to refuse to enforce the terms of the order unless it is apparent to the officer that the order is invalid on its face.

b. A peace officer acting reasonably and in good faith in connection with the enforcement of a foreign protective order shall be immune from civil and criminal liability in any action arising in connection with such enforcement.

5. Filing and service costs in connection with foreign protective orders may be waived or deferred as provided in section 236.3.

Sec. 3. Section 708.7, subsection 1, paragraph a, subparagraph (1), Code 1999, is amended to read as follows:

(1) Communicates with another by telephone, telegraph, ~~or~~ writing, or via electronic communication without legitimate purpose and in a manner likely to cause the other person annoyance or harm.

Approved April 21, 2000

CHAPTER 1133

DRIVER LICENSING, AUTHORIZED EMERGENCY VEHICLES, AND MISCELLANEOUS MOTOR VEHICLE PROVISIONS

S.F. 2313

AN ACT relating to motor vehicles, including driver licensing, the use of child restraints and safety belts for children, owner liability for damages, and the designation of vehicles as authorized emergency vehicles, making a penalty applicable, and providing an effective date.

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

Section 1. Section 321.1, subsection 6, Code Supplement 1999, is amended to read as follows:

6. "Authorized emergency vehicle" means vehicles of the fire department, police vehicles, ambulances, and emergency vehicles owned by the United States, this state, ~~or~~ any subdivision of this state, or any municipality of this state, and privately owned ~~ambulances, and fire, rescue, or disaster~~ vehicles as are designated or authorized by the director of transportation under section 321.451.

Sec. 2. Section 321.11, Code Supplement 1999, is amended to read as follows:

321.11 RECORDS OF DEPARTMENT.

1. All records of the department, other than those made confidential or not permitted to be open in accordance with 18 U.S.C. § 2721 et seq., adopted as of a specific date by rule of the department, shall be open to public inspection during office hours.

2. ~~Personal~~ Notwithstanding subsection 1, personal information shall not be disclosed to a requestor ~~if~~, except as provided in Pub. L. No. 106-69, § 350(b) or 18 U.S.C. § 2721, unless the ~~individual~~ person whose personal information is requested has ~~not elected to prohibit disclosure of the information to the general public~~ provided express written consent allowing disclosure of the person's personal information. ~~The department shall give notice in a clear and conspicuous manner on forms for issuance or renewal of driver's licenses, titles, registrations, or nonoperator's identification cards that personal information collected by the department may be disclosed to any person. The department shall provide in a clear and conspicuous manner on these forms an opportunity for an individual to prohibit disclosure of personal information to the general public.~~ As used in this ~~paragraph~~ section, "personal information" means information that identifies a person, including a person's photograph, social security number, driver's license number, name, address, telephone number, and medical or disability information, but does not include information on vehicular accidents, driving violations, and driver's status or a person's zip code.

3. Notwithstanding other provisions of this section to the contrary, the department shall not release personal information to a person, other than to an officer or employee of a law enforcement agency, an employee of a federal or state agency or political subdivision in the performance of the employee's official duties, a contract employee of the department of inspections and appeals in the conduct of an investigation, or a licensed private investigation agency or a licensed security service or a licensed employee of either, if the information is requested by the presentation of a registration plate number. In addition, an officer or employee of a law enforcement agency may release the name, address, and telephone number of a motor vehicle registrant to a person requesting the information by the presentation of a registration plate number if the officer or employee of the law enforcement agency believes that the release of the information is necessary in the performance of the officer's or employee's duties.

4. The department shall not sell personal information which is in the form of a person's photograph or digital image or a digital reproduction of a person's photograph, regardless of whether ~~an individual~~ a person has ~~elected to prohibit~~ provided express written consent to disclosure of the information ~~to the general public~~. This ~~paragraph~~ subsection does not prohibit the department from collecting reasonable fees for copies of records or other services provided pursuant to section 22.3, 321.10, or 622.46.

Sec. 3. Section 321.178, subsection 1, unnumbered paragraph 3, Code Supplement 1999, is amended to read as follows:

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 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 of transportation 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 of transportation 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 department of transportation 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 of transportation to provide street or highway driving instruction.

Sec. 4. Section 321.188, subsection 1, paragraph c, Code Supplement 1999, is amended to read as follows:

c. Successfully pass knowledge tests and driving skills tests which the department shall require by rule. The rules adopted shall substantially comply with the federal minimum testing and licensing requirements in 49 C.F.R. part 383, subparts E, G, and H as adopted by rule by the department. Except as required under 49 C.F.R. part 383, subpart E, G, or H, a commercial driver's license is renewable without a driving skills test within one year after its expiration date.

Sec. 5. Section 321.196, unnumbered paragraph 1, Code 1999, is amended to read as follows:

Except as otherwise provided, a driver's license, other than an instruction permit, chauffeur's instruction permit, or commercial driver's instruction permit issued under section 321.180, expires, at the option of the applicant, two or four years from the licensee's birthday anniversary occurring in the year of issuance if the licensee is between the ages of seventeen years eleven months and seventy years on the date of issuance of the license. If the licensee is under the age of seventeen years eleven months or age seventy or over, the

license is effective for a period of two years from the licensee's birthday anniversary occurring in the year of issuance. Except as required in section 321.188, and except for a motorcycle instruction permit issued in accordance with section 321.180 or 321.180B, a driver's license is renewable without written examination or penalty within a period of sixty days after its expiration date and without a driving test within a period of one year after its expiration date. A person shall not be considered to be driving with an invalid license during a period of sixty days following the license expiration date. However, for a license renewed within the sixty-day period, the date of issuance shall be considered to be the previous birthday anniversary on which it expired. Applicants whose licenses are restricted due to vision or other physical deficiencies may be required to renew their licenses every two years. For the purposes of this section the birthday anniversary of a person born on February 29 shall be deemed to occur on March 1. The department in its discretion may authorize the renewal of a valid driver's license other than a commercial driver's license upon application without an examination provided that the applicant satisfactorily passes a vision test as prescribed by the department, files a vision report in accordance with section 321.186A which shows that the applicant's visual acuity level meets or exceeds those required by the department, or is eligible for renewal by mail pursuant to rules adopted by the department. The department may assess an applicant a fee of no more than two dollars for administration and mailing expenses for providing for renewal of the applicant's driver's license by mail.

Sec. 6. Section 321.208, subsection 1, Code Supplement 1999, is amended by adding the following new paragraph:

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

Sec. 7. Section 321.210D, subsection 2, Code 1999, is amended to read as follows:

2. Upon receiving notice from the clerk of the district court that an indictment or information has been filed charging an operator with homicide by vehicle under section 707.6A, subsection 1~~, and if the person's license has not previously been suspended under chapter 321J, or under section 707.6A, subsection~~ or 2, the department shall notify the person that the person's driver's license will be suspended effective ten days from the date of issuance of the notice. The department shall adopt rules relating to the suspension of the license of an operator pursuant to this section which shall include, but are not limited to, procedures for the surrender of the person's license to the department upon the effective date of the suspension.

Sec. 8. Section 321.215, subsection 1, unnumbered paragraph 1, Code 1999, is amended to read as follows:

The department, on application, may issue a temporary restricted license to a person whose noncommercial driver's license is suspended or 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 any of the following:

Sec. 9. Section 321.215, subsection 2, unnumbered paragraph 1, Code 1999, is amended to read as follows:

Upon conviction and the suspension or revocation of a person's noncommercial driver's license under section 321.209, subsection 5 or 6; section 321.210; 321.210A; or 321.513; or upon revocation pursuant to a court order issued under section 901.5, subsection 10; or upon the denial of issuance of a noncommercial driver's license under section 321.560, based solely on offenses enumerated in section 321.555, subsection 1, paragraph "c", or section 321.555, subsection 2; or a juvenile, whose license has been suspended or revoked pursuant to a dispositional order under section 232.52, subsection 2, paragraph "a", for a violation of chapter 124 or 453B, or section 126.3, a person may petition the district court having jurisdiction for the residence of the person for a temporary restricted permit to operate a motor vehicle for the limited purpose or purposes specified in subsection 1. The petition shall include a current certified copy of the petitioner's official driving record issued by the department. The application may be granted only if all of the following criteria are satisfied:

Sec. 10. Section 321.215, subsection 4, Code 1999, is amended to read as follows:

4. The temporary restricted license or permit is not valid to operate a commercial motor vehicle if a commercial driver's license is required for the person's operation of the commercial motor vehicle ~~and the person is disqualified to operate a commercial motor vehicle under section 321.208, subsection 1, 2, 3, or~~ 4.

Sec. 11. Section 321.446, subsections 1 through 3, Code 1999, are amended to read as follows:

1. A child under three years of age who is being transported in a motor vehicle subject to registration, ~~which has a gross weight of ten thousand pounds or less as specified by the manufacturer,~~ except a school bus or motorcycle, shall be secured during transit by a child restraint system which meets federal motor vehicle safety standards and the system shall be used in accordance with the manufacturer's instructions.

2. A child at least three years of age but under six years of age who is being transported in a motor vehicle subject to registration, ~~which has a gross weight of ten thousand pounds or less as specified by the manufacturer,~~ except a school bus or motorcycle, shall be secured during transit by either a child restraint system that meets federal motor vehicle safety standards and is used in accordance with the manufacturer's instructions, or by a safety belt or safety harness of a type approved under section 321.445.

3. This section does not apply to peace officers acting on official duty. This section also does not apply to the transportation of children in 1965 model year or older vehicles, ~~or~~ authorized emergency vehicles, or motor homes, except when a child is transported in a motor home's passenger seat situated directly to the driver's right. This section does not apply to the transportation of a child who has been certified by a physician licensed under chapter 148, 150, or 150A as having a medical, physical, or mental condition which prevents or makes inadvisable securing the child in a child restraint system, safety belt or safety harness.

Sec. 12. Section 321.451, Code 1999, is amended by striking the section and inserting in lieu thereof the following:

321.451 EMERGENCY VEHICLES — CERTIFICATE OF DESIGNATION.

1. The director or the director's designee may designate a privately owned vehicle as an authorized emergency vehicle and issue a certificate of designation for the vehicle, upon written request being made on forms provided by the department and showing necessity for the designation. A certificate of designation may be issued for the following privately owned vehicles:

a. An ambulance or fire or rescue vehicle.

b. A state or county medical examiner vehicle.

c. A vehicle owned by a sheriff or full-time paid deputy sheriff if the authorized emergency vehicle designation is requested by the sheriff.

d. A vehicle owned by a chief of police or any officer of the police department if the authorized emergency vehicle designation is requested by the chief of police.

e. A vehicle owned by a chief of a full-time paid fire department if the authorized emergency vehicle designation is requested by the chief of the fire department.

2. The application for a certificate of designation must include the name and occupation of the owner of the vehicle, vehicle identification information, a description of the vehicle's equipment, a description of the use of the vehicle when its red light is flashing, and a photograph showing a side view of the vehicle.

3. The certificate of designation shall at all times be carried with the registration receipt for the vehicle to which the certificate refers. The certificate may be revoked by the director upon a showing of abuse.

Sec. 13. Section 321.556, subsection 1, Code 1999, is amended to read as follows:

1. If, upon review of the record of convictions of any person, the department determines that the person appears to be a habitual offender, the department shall immediately notify

the person in writing and afford the licensee an opportunity for a hearing. ~~The notice shall direct the person named in the notice to appear for hearing and show cause why the person should not be barred from operating a motor vehicle on the highways of this state.~~ The notice shall meet the requirements of section 17A.12 and shall be served in the manner provided in that section. Service of notice on any nonresident of this state may be made in the same manner as provided in sections 321.498 through 321.506. A peace officer stopping a person for whom a notice ~~to appear for hearing~~ has been issued under ~~the provisions of~~ this section may personally serve the notice upon forms approved by the department to satisfy the notice requirements of this section. A peace officer may confiscate the driver's license of a person if the license has been revoked or has been suspended subsequent to a hearing and the person has not forwarded the driver's license to the department as required.

Sec. 14. Section 321G.18, Code 1999, is amended to read as follows:

321G.18 NEGLIGENCE.

The owner and operator of an all-terrain vehicle or snowmobile are liable for any injury or damage occasioned by the negligent operation of the all-terrain vehicle or snowmobile. The owner of an all-terrain vehicle or snowmobile shall be liable for any such injury or damage only if the owner was the operator of the all-terrain vehicle or snowmobile at the time the injury or damage occurred or if the operator had the owner's consent to operate the all-terrain vehicle or snowmobile at the time the injury or damage occurred.

Sec. 15. Section 321J.4, subsection 9, Code Supplement 1999, is amended to read as follows:

9. A person whose noncommercial driver's license has either been revoked under this chapter, or revoked or suspended under chapter 321 solely for violations of this chapter, or who has been determined to be a habitual offender under chapter 321 based solely on violations of this chapter, and who is not eligible for a temporary restricted license under this chapter may petition the court upon the expiration of the minimum period of ineligibility for a temporary restricted license provided for under this section or section 321J.9, 321J.12, or 321J.20 for an order to the department to require the department to issue a temporary restricted license to the person notwithstanding section 321.560. The petition shall include a current certified copy of the petitioner's official driving record issued by the department. Upon the filing of a petition for a temporary restricted license under this section, the clerk of the district court in the county where the violation that resulted in the revocation occurred shall send notice of the petition to the department and the prosecuting attorney. The department and the prosecuting attorney shall each be given an opportunity to respond to and request a hearing on the petition. 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. Section 321.561 does not apply to a person operating a motor vehicle in the manner permitted under this subsection. If the person operates a motor vehicle which does not have an approved ignition interlock device or if the person tampers with or circumvents an ignition interlock device, in addition to other penalties provided, the person's temporary restricted license shall be revoked. A person holding a temporary restricted license issued under this subsection shall not operate a commercial motor vehicle, as defined in section 321.1, on a highway if a commercial driver's license is required for the person to operate the commercial motor vehicle.

Notwithstanding any provision of this chapter to the contrary, the court may order the department to issue a temporary restricted license to a person otherwise eligible for a

temporary restricted license under this subsection, whose period of revocation under this chapter has expired, but who has not met all requirements for reinstatement of the person's noncommercial driver's license or nonresident operating privileges.

Sec. 16. Section 321J.13, subsection 1, Code Supplement 1999, is amended to read as follows:

1. Notice of revocation of a person's noncommercial driver's license or operating privilege served pursuant to section 321J.9 or 321J.12 shall include a form accompanied by a preaddressed envelope on which the person served may indicate by a checkmark if the person only wishes to request a temporary restricted license after the mandatory ineligibility period for issuance of a temporary restricted license has ended, or if the person wishes a hearing to contest the revocation. The form shall clearly state on its face that the form must be completed and returned within ten days of receipt or the person's right to a hearing to contest the revocation is foreclosed. The form shall also be accompanied by a statement of the operation of and the person's rights under this chapter.

Sec. 17. Section 321J.20, subsections 1 and 4, Code 1999, are amended to read as follows:

1. 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 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:

a. The person's noncommercial driver's license is revoked under section 321J.4 and the minimum period of ineligibility for issuance of a temporary restricted license has expired. This subsection shall not apply to a revocation ordered under section 321J.4 resulting from a plea or verdict of guilty of a violation of section 321J.2 that involved a death.

b. The person's noncommercial driver's license is revoked under section 321J.9 and the person has entered a plea of guilty on a charge of a violation of section 321J.2 which arose from the same set of circumstances which resulted in the person's driver's license revocation under section 321J.9 and the guilty plea is not withdrawn at the time of or after application for the temporary restricted license, and the minimum period of ineligibility for issuance of a temporary restricted license has expired.

c. The person's noncommercial driver's license is revoked under section 321J.12, and the minimum period of ineligibility for issuance of a temporary restricted license has expired.

However, a temporary restricted license may be issued if the person's noncommercial driver's license is revoked under section 321J.9, and the revocation is a second revocation under this chapter, and the first three hundred and sixty-five days of the revocation have expired.

4. A person holding a temporary restricted license issued by the department under this section shall not operate a commercial motor vehicle on a highway if a commercial driver's license is required for the person's operation of the commercial motor vehicle. ~~However, this subsection does not apply if the temporary restricted license was issued as a result of a violation of this chapter while the person was operating a vehicle other than a commercial motor vehicle.~~

Sec. 18. EFFECTIVE DATE. The section of this Act amending section 321.11, being deemed of immediate importance, takes effect upon enactment.

Approved April 21, 2000

CHAPTER 1134

TRANSPORTATION REGULATION — MISCELLANEOUS PROVISIONS

S.F. 2329

AN ACT relating to transportation, by enhancing penalties for certain vehicle violations relating to railroad crossings, modifying vehicle registration provisions, regulating the closing of railway crossings, requiring adoption of rules for hours of service for certain drivers, and modifying a definition relating to motor vehicle dealers.

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

Section 1. Section 321.20, subsection 1, Code Supplement 1999, as amended by 2000 Iowa Acts, Senate File 2147,[1] section 39, as enacted, is amended to read as follows:

1. The full legal name; social security number or, if the owner does not have a social security number but has a passport, the passport number; driver's license number, whether the license was issued by this state, another state, another country, or is an international driver's license; date of birth; bona fide residence; and mailing address of the owner and of the lessee if the vehicle is being leased. If the owner or lessee is a firm, association, or corporation, the application shall contain the business address and federal employer identification number of the owner or lessee. Up to three owners' names may be listed on the application. Information relating to the lessee of a vehicle shall not be required on an application for registration and a certificate of title for a vehicle with a gross vehicle weight rating of ~~twenty six~~ ten thousand pounds or more.

Sec. 2. NEW SECTION. 321.344B IMMEDIATE SAFETY THREAT — PENALTY.

A violation of section 321.341, 321.342, 321.343, or 321.344 which creates an immediate threat to the safety of a person or property is a simple misdemeanor punishable as a scheduled violation under section 805.8, subsection 2, paragraph "ac".

Sec. 3. Section 321.449, subsection 1, Code Supplement 1999, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The department shall also adopt rules concerning hours of service for drivers of vehicles operated for hire and designed to transport more than eight persons, including the driver. The rules shall not apply to vehicles offered to the public for hire that are used principally in intracity operation and that are regulated by local authorities pursuant to section 321.236.

Sec. 4. Section 322.2, subsection 20, Code 1999, is amended to read as follows:

20. "Selling" includes bartering, exchanging, delivering, or otherwise dealing in.

Sec. 5. NEW SECTION. 327G.25 CLOSING OF CROSSING FOR REPAIR OR UPGRADE.

A railway corporation shall not close a railway crossing to the traveling public for more than thirty days for the purpose of repairing or upgrading the crossing. A railway corporation violating this section shall, upon conviction, be subject to a schedule "one" penalty.

Sec. 6. Section 805.8, subsection 2, paragraph ac, Code Supplement 1999, is amended to read as follows:

ac. For violations of sections 321.341, 321.342, 321.343, and 321.344, the scheduled fine is ~~fifty~~ one hundred dollars. For violations of section 321.344B, the scheduled fine is two hundred dollars.

Approved April 21, 2000

[1] Chapter 1016 herein

CHAPTER 1135

OPERATING WHILE INTOXICATED — CHEMICAL TEST EVIDENCE

H.F. 2170

AN ACT regarding application of the margin of error for chemical test evidence used in operating while intoxicated prosecutions.

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

Section 1. Section 321J.2, subsection 10, Code Supplement 1999, is amended to read as follows:

10. In any prosecution under this section, the results of a chemical test ~~may~~ shall not be used to prove a violation of subsection 1, paragraph "b" or "c", if the alcohol, controlled substance, or other drug concentration indicated by the chemical test minus the established margin of error inherent in the device or method used to conduct the chemical test does not equal or exceed the level prohibited by subsection 1, paragraph "b" or "c".

Approved April 21, 2000

CHAPTER 1136

DOMESTIC ABUSE DEATH REVIEW TEAM

H.F. 2362

AN ACT relating to the establishment of a domestic abuse death review team and providing a penalty.

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

Section 1. NEW SECTION. 135.108 DEFINITIONS.

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

1. "Department" means the Iowa department of public health.

2. "Director" means the director of public health.

3. "Domestic abuse death" means a homicide or suicide that involves or is a result of an assault as defined in section 708.1 and to which any of the following circumstances apply to the parties involved:

a. The alleged or convicted perpetrator is related to the decedent as spouse, separated spouse, or former spouse.

b. The alleged or convicted perpetrator resided with the decedent at the time of the assault that resulted in the homicide or suicide.

c. The alleged or convicted perpetrator and the decedent resided together in the past but did not reside together at the time of the assault that resulted in the homicide or suicide.

d. The alleged or convicted perpetrator and decedent are parents of the same minor child, whether they were married or lived together at any time.

e. The alleged or convicted perpetrator was in an ongoing personal relationship with the decedent.

f. The alleged or convicted perpetrator was arrested for or convicted of stalking or harassing the decedent, or an order or court-approved agreement was entered against the perpetrator under chapter 232, 236, 598, or 915 to restrict contact by the perpetrator with the decedent.

g. The decedent was related by blood or affinity to an individual who lived in the same household with or was in the workplace or proximity of the decedent, and that individual was threatened with assault by the perpetrator.

4. "Team" means the domestic abuse death review team established in section 135.109.

Sec. 2. NEW SECTION. 135.109 IOWA DOMESTIC ABUSE DEATH REVIEW TEAM MEMBERSHIP.

1. An Iowa domestic abuse death review team is established as an independent agency of state government.

2. The department shall provide staffing and administrative support to the team.

3. The team shall include the following members:

a. The state medical examiner or the state medical examiner's designee.

b. A licensed physician who is knowledgeable concerning domestic abuse injuries and deaths, including suicides.

c. A licensed mental health professional who is knowledgeable concerning domestic abuse.

d. A representative or designee of the Iowa coalition against domestic violence.

e. A certified or licensed professional who is knowledgeable concerning substance abuse.

f. A law enforcement official who is knowledgeable concerning domestic abuse.

g. A law enforcement investigator experienced in domestic abuse investigation.

h. An attorney experienced in prosecuting domestic abuse cases.

i. A judicial officer appointed by the chief justice of the supreme court.

j. A clerk of the district court appointed by the chief justice of the supreme court.

k. An employee or subcontractor of the department of corrections who is a trained batterers' education program facilitator.

l. An attorney licensed in this state who provides criminal defense assistance or child custody representation, and who has experience in dissolution of marriage proceedings.

m. Both a female and a male victim of domestic abuse.

n. A family member of a decedent whose death resulted from domestic abuse.

4. The following individuals shall each designate a liaison to assist the team in fulfilling the team's duties:

a. The attorney general.

b. The director of the Iowa department of corrections.

c. The director of public health.

d. The director of human services.

e. The commissioner of public safety.

f. The administrator of the bureau of vital records of the Iowa department of public health.

g. The director of the department of education.

h. The state court administrator.

i. The director of the department of human rights.

5. a. The director of public health, in consultation with the attorney general, shall appoint review team members who are not designated by another appointing authority.

b. A membership vacancy shall be filled in the same manner as the original appointment.

c. 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.

d. A member of the team may be reappointed to serve additional terms on the team, subject to the provisions of chapter 69.

6. Membership terms shall be three-year staggered terms.

7. Members of the team are eligible for reimbursement of actual and necessary expenses incurred in the performance of their official duties.

8. Team members and their agents are immune from any liability, civil or criminal, which might otherwise be incurred or imposed as a result of any act, omission, proceeding, decision, or determination undertaken or performed, or recommendation made as a team member or agent provided that the team members or agents acted reasonably and in good faith

and without malice in carrying out their official duties in their official capacity. A complainant bears the burden of proof in establishing malice or unreasonableness or lack of good faith in an action brought against team members involving the performance of their duties and powers.

Sec. 3. NEW SECTION. 135.110 IOWA DOMESTIC ABUSE DEATH REVIEW TEAM POWERS AND DUTIES.

1. The review team shall perform the following duties:

a. Prepare an annual report for the governor, supreme court, attorney general, and the general assembly concerning the following subjects:

(1) The causes and manner of domestic abuse deaths, including an analysis of factual information obtained through review of domestic[1] death certificates and domestic abuse death data, including patient records and other pertinent confidential and public information concerning domestic abuse deaths.

(2) The contributing factors of domestic abuse deaths.

(3) Recommendations regarding the prevention of future domestic abuse deaths, including actions to be taken by communities, based on an analysis of these contributing factors.

b. Advise and consult the agencies represented on the team and other state agencies regarding program and regulatory changes that may prevent domestic abuse deaths.

c. Develop protocols for domestic abuse death investigations and team review.

2. In performing duties pursuant to subsection 1, the review team shall review the relationship between the decedent victim and the alleged perpetrator from the point where the abuse allegedly began, until the domestic abuse death occurred, and shall review all relevant documents pertaining to the relationship between the parties, including but not limited to protective orders and dissolution, custody, and support agreements and related court records, in order to ascertain whether a correlation exists between certain events in the relationship and any escalation of abuse, and whether patterns can be established regarding such events in relation to domestic abuse deaths in general. The review team shall consider such conclusions in making recommendations pursuant to subsection 1.

3. The team shall meet upon the call of the chairperson, upon the request of a state agency, or as determined by a majority of the team.

4. The team shall annually elect a chairperson and other officers as deemed necessary by the team.

5. The team may establish committees or panels to whom the team may assign some or all of the team's responsibilities.

6. Members of the team who are currently practicing attorneys or current employees of the judicial branch of state government shall not participate in the following:

a. An investigation by the team that involves a case in which the team member is presently involved in the member's professional capacity.

b. Development of protocols by the team for domestic abuse death investigations and team review.

c. Development of regulatory changes related to domestic abuse deaths.

Sec. 4. NEW SECTION. 135.111 CONFIDENTIALITY OF DOMESTIC ABUSE DEATH RECORDS.

1. A person in possession or control of medical, investigative, or other information pertaining to a domestic abuse death and related incidents and events preceding the domestic abuse death, shall allow for the inspection and review of written or photographic information related to the death, whether the information is confidential or public in nature, by the department upon the request of the department and the team, to be used only in the administration and for the official duties of the team. Information and records produced under this section that are confidential under the law of this state or under federal law, or because of any legally recognized privilege, and information or records received from the confidential records, remain confidential under this section.

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[1] See chapter 1232, §48 herein

2. A person does not incur legal liability by reason of releasing information to the department as required under and in compliance with this section.

3. A person who releases or discloses confidential data, records, or any other type of information in violation of this section is guilty of a serious misdemeanor.

Sec. 5. NEW SECTION. 135.112 RULEMAKING.

The department shall adopt rules pursuant to chapter 17A relating to the administration of the domestic abuse death review team and sections 135.108 through 135.111.

Sec. 6. INITIAL TERMS. Notwithstanding any contrary provision of section 135.109, as enacted by this Act, the director of public health shall designate initial terms of team members as follows: approximately one-third of the total number of members of the Iowa domestic abuse review team,[2] of those members first listed in section 135.109, subsection 3, as enacted by this Act, shall initially serve terms of three years; approximately one-third of the total number of members of those members next listed shall initially serve terms of two years; and approximately one-third of the total number of members of those members finally listed shall serve terms of one year.

Approved April 21, 2000

CHAPTER 1137

ACCESS TO CHILD ABUSE INFORMATION

H.F. 2377

AN ACT providing for access to certain child abuse information, making penalties and remedies applicable, and including an effective date and applicability provision.

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

Section 1. Section 135.43, subsection 3, paragraph e, Code 1999, is amended by striking the paragraph.

Sec. 2. Section 135.43, Code 1999, is amended by adding the following new subsection:

NEW SUBSECTION. 3A. The review team shall develop protocols for a child fatality review committee to be appointed by the director on an ad hoc basis to immediately review the child abuse assessments which involve the fatality of a child under age eighteen. The director shall appoint a medical examiner, a pediatrician, and a person involved with law enforcement to the committee.

a. The purpose of the review shall be to determine whether the department of human services and others involved with the case of child abuse responded appropriately. The protocols shall provide for the committee to consult with any multidisciplinary team, as defined in section 235A.13, that is operating in the area in which the fatality occurred.

b. The committee shall have access to patient records and other pertinent confidential information and subject to the restrictions in this subsection may redisseminate the confidential information in the committee's report.

c. Upon completion of the review, the committee shall issue a report which shall include findings concerning the case and recommendations for changes to prevent child fatalities when similar circumstances exist. The report shall include but is not limited to the following information, subject to the restrictions listed in paragraph "d":

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[2] Iowa domestic abuse death review team probably intended

(1) The dates, outcomes, and results of any actions taken by the department of human services and others in regard to each report and allegation of child abuse involving the child who died.

(2) The results of any review of the case performed by a multidisciplinary team, or by any other public entity that reviewed the case.

(3) Confirmation of the department of human services' receipt of any report of child abuse involving the child, including confirmation as to whether or not any assessment involving the child was performed in accordance with section 232.71B, the results of any assessment, a description of the most recent assessment and the services offered to the family, the services rendered to the family, and the basis for the department's decisions concerning the case.

d. Prior to issuing the report, the committee shall consult with the county attorney responsible for prosecution of the alleged perpetrator of the child fatality. The committee's report shall include child abuse information associated with the case and the child, but is subject to the restrictions applicable to the department of human services for release of information concerning a child fatality or near fatality in accordance with section 235A.15, subsection 9.

e. Following the completion of the trial of any alleged perpetrator of the child fatality and the appeal period for the granting of a new trial, the committee shall issue a supplemental report containing the information that was withheld, in accordance with paragraph "d", so as not to jeopardize the prosecution or the rights of the alleged perpetrator to a fair trial as described in section 235A.15, subsection 9, paragraphs "f" and "g".

f. The report and any supplemental report shall be submitted to the governor and general assembly.

Sec. 3. Section 135.43, subsection 6, paragraph b, Code 1999, is amended to read as follows:

b. A person in possession or control of medical, investigative, assessment, or other information pertaining to a child death and child abuse review shall allow the inspection and reproduction of the information by the department upon the request of the department, to be used only in the administration and for the duties of the Iowa child death review team. ~~Information~~ Except as provided for a report on a child fatality by an ad hoc child fatality review committee under subsection 3A and records which are confidential under section 22.7 and chapter 235A, and information or records received from the confidential records, remain confidential under this section. A person does not incur legal liability by reason of releasing information to the department as required under and in compliance with this section.

Sec. 4. Section 232.70, Code 1999, is amended by adding the following new subsection:

NEW SUBSECTION. 8. Within twenty-four hours of receiving a report from a mandatory or permissive reporter, the department shall inform the reporter, orally or by other appropriate means, whether or not the department has commenced an assessment of the allegation in the report.

Sec. 5. Section 235A.13, Code Supplement 1999, is amended by adding the following new subsection:

NEW SUBSECTION. 8A. "Near fatality" means a bodily injury which involves substantial risk of death, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty and includes a serious bodily injury as described in section 702.18.

Sec. 6. Section 235A.15, subsection 1, Code Supplement 1999, is amended to read as follows:

1. Notwithstanding chapter 22, the confidentiality of all child abuse information shall be maintained, except as specifically provided by ~~subsection 2, 3, or 4~~ this section.

Sec. 7. Section 235A.15, subsection 2, paragraph b, subparagraph (5), Code Supplement 1999, is amended to read as follows:

(5) In an individual case, to ~~the~~ each mandatory reporter who reported the child abuse.

Sec. 8. Section 235A.15, subsection 2, paragraph f, Code Supplement 1999, is amended to read as follows:

f. ~~The following, but only~~ Only with respect to disposition data for cases of founded child abuse subject to placement in the central registry pursuant to section 232.71D~~:~~

~~(1) To~~ to a person who submits written authorization from an individual allowing the person access to data pursuant to this subsection on behalf of the individual in order to verify whether the individual is named in a founded child abuse report as having abused a child.

~~(2) To an individual who is requesting information on a specific case of child abuse which resulted in a child fatality or near fatality.~~

Sec. 9. Section 235A.15, Code Supplement 1999, is amended by adding the following new subsections:

NEW SUBSECTION. 7. Upon the request of a person listed in this subsection, child abuse information relating to a specific case of child abuse involving a fatality or near fatality to a child and reported to the department shall be disclosed to that person by the director of human services. The purpose of the disclosure is to provide for oversight of the department and others involved with the state's child protection system in order to improve the system. After completing a review of the child abuse information received, an authorized requester may issue a report to the governor regarding the specific case of child abuse. The following persons are authorized to make a request and receive child abuse information under this section relating to a specific case of child abuse involving a fatality or near fatality to a child:

a. The governor or the governor's designee.

b. The member of the senate or employee of the general assembly designated by the majority leader or minority leader of the senate.

c. The member of the house of representatives or employee of the general assembly designated by the speaker or minority leader of the house of representatives.

NEW SUBSECTION. 8. Upon the request of the governor, the department shall disclose child abuse information to the governor relating to a specific case of child abuse reported to the department.

NEW SUBSECTION. 9. If the department receives a request for child abuse information relating to a case of a fatality or near fatality to a child, within five business days of receiving the request the director of human services or the director's designee shall consult with the county attorney responsible for prosecution of any alleged perpetrator of the fatality or near fatality and shall disclose child abuse information relating to the case and the child in accordance with this subsection. The director or the director's designee shall release all child abuse information associated with the case and the child, except for the following:

a. The substance or content of any mental health or psychological information that is confidential under chapter 228.

b. Information that constitutes the substance or contains the content of an attorney work product or is a privileged communication under section 622.10.

c. Information pertaining to the child, the child's family, or any other person that is not directly related to the cause of the fatality or near fatality.

d. Information that would reveal the identity of any individual who provided information relating to a report of child abuse or an assessment of such a report involving the child.

e. Information that the director or the director's designee reasonably believes is likely to cause mental or physical harm to a sibling of the child or to another child residing in the child's household.

f. Information that the director or the director's designee reasonably believes is likely to jeopardize the prosecution of any alleged perpetrator of the fatality or near fatality.

g. Information that the director or the director's designee reasonably believes is likely to jeopardize the rights of any alleged perpetrator of the fatality or near fatality to a fair trial.

h. Information that the director or the director's designee reasonably believes is likely to undermine an ongoing or future criminal investigation.

i. Information, the release of which is a violation of federal law or regulation.

Sec. 10. Section 235A.17, Code 1999, is amended by adding the following new subsection:

NEW SUBSECTION. 3. For the purposes of this subsection, "subject of a child abuse report" means any individual listed in section 235A.15, subsection 2, paragraph "a", other than the attorney or guardian ad litem of such individual. An individual who is the subject of a child abuse report may redisseminate to the governor or the governor's designee or to a member of the general assembly or an employee of the general assembly designated by the member, child abuse information that was disseminated to the individual by the department or other official source. The child abuse information may also include the following related information that the individual is allowed under law to possess: department of human services information described in section 217.30, subsection 1, mental health information as defined in section 228.1, and juvenile court social records and other information in official juvenile court records described in section 232.147. A person who receives confidential child abuse information and related information redisseminated under this subsection shall not further disseminate, communicate, or attempt to communicate the information to a person who is not authorized by this section or other provision of law to have access to the information.

Sec. 11. Section 235A.18, subsection 2, Code Supplement 1999, is amended to read as follows:

2. The juvenile or district court and county attorney shall expunge child abuse information upon notice from the registry. The supreme court shall prescribe rules establishing the period of time child abuse information is retained by the juvenile and district courts. A county attorney shall not retain child abuse information in excess of the time period the information would be retained under the rules prescribed by the supreme court. Child abuse information relating to a particular case of child abuse placed in the central registry that a juvenile or district court determines is unfounded in a written finding based upon a preponderance of evidence shall be expunged from the central registry.

Sec. 12. NEW SECTION. 235A.25 ORDER FOR DISCLOSURE OF CHILD ABUSE INFORMATION.

A person whose request for child abuse information under section 235A.15, subsection 9, is denied may apply to the juvenile court for an order compelling disclosure of the information. The application shall state in reasonable detail the factors in support of the application. The juvenile court shall have jurisdiction to issue the order. A hearing shall be set immediately upon filing of an application under this section and subsequent proceedings shall be accorded priority by other courts. After the court has reviewed the child abuse information relating to the case in camera, unless the court finds that a restriction listed in section 235A.15, subsection 9, is applicable, the court shall issue an order compelling disclosure of the child abuse information.

Sec. 13. STUDY OF ACCESS TO CONFIDENTIAL INFORMATION. The legislative council is requested to establish a study committee for the 2000 interim to review state policy regarding confidential information in the area of child abuse and other human services-related programs. The study shall include consideration of the review of the child abuse program performed by independent experts retained by the department of human services, approaches used in other states, policy regarding privileged information, and access to agency and other information by the office of the citizens' aide.

Sec. 14. EFFECTIVE DATE — APPLICABILITY. This Act, being deemed of immediate importance, takes effect upon enactment and is applicable to disclosures of information on or after the date of enactment related to cases of child abuse reported prior to, on, or after the effective date of this Act.

Approved April 21, 2000

CHAPTER 1138

DRINKING DRIVER RESTRICTIONS

H.F. 2511

AN ACT relating to drinking driver restrictions by providing for the issuance of temporary restricted permits or licenses under certain circumstances, by providing that the course for drinking drivers shall be taught by community colleges or licensed substance abuse programs, and by providing for parental and school notification of certain violations by persons under eighteen years of age.

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

Section 1. Section 123.46, Code 1999, is amended by adding the following new subsection:

NEW SUBSECTION. 3A. a. A peace officer shall make a reasonable effort to identify a person under the age of eighteen who violates this section, and if the person is not referred to juvenile court, the law enforcement agency of which the peace officer is an employee shall make a reasonable attempt to notify the person's custodial parent or legal guardian of the violation, whether or not the person is taken into custody, unless the officer has reasonable grounds to believe that notification is not in the best interests of the person or will endanger that person.

b. The peace officer shall also make a reasonable effort to identify the elementary or secondary school which the person attends if the person is enrolled in elementary or secondary school and to notify the superintendent or the superintendent's designee of the school which the person attends, or the authorities in charge of the nonpublic school which the person attends, of the violation. If the person is taken into custody, the peace officer shall notify a juvenile court officer who shall make a reasonable effort to identify the elementary or secondary school the person attends, if any, and to notify the superintendent of the school district or the superintendent's designee, or the authorities in charge of the nonpublic school, of the violation. A reasonable attempt to notify the person includes, but is not limited to, a telephone call or notice by first-class mail.

Sec. 2. Section 321.560, Code 1999, is amended to read as follows:

321.560 PERIOD OF REVOCATION.

1. A license to operate a motor vehicle in this state shall not be issued to any person declared to be a habitual offender under section 321.555, subsection 1, for a period of not less than two years nor more than six years from the date of the final decision of the department under section 17A.19 or the date on which the district court upholds the final decision of the department, whichever occurs later.

a. ~~However, a~~ A temporary restricted permit may be issued pursuant to section 321.215, subsection 2, to a person declared to be a habitual offender under section 321.555, subsection 1, paragraph "c"~~, pursuant to section 321.215, subsection 2~~.

b. A temporary restricted permit may be issued pursuant to section 321J.4, subsection 9, to a person declared to be a habitual offender due to a combination of the offenses listed under section 321.555, subsection 1, paragraph "b" or "c".

2. A license to operate a motor vehicle in this state shall not be issued to any person declared to be a habitual offender under section 321.555, subsection 2, for a period of one year from the date of the final decision of the department under section 17A.19 or the date on which the district court upholds the final decision of the department, whichever occurs later.

3. The department shall adopt rules under chapter 17A ~~which~~ that establish a point system which shall be used to determine the period for which a person who is declared to be a habitual offender under section 321.555, subsection 1, shall not be issued a license.

4. A person who is determined to be a habitual offender while the person's license is already revoked for being a habitual offender under section 321.555 shall not be issued a license to operate a motor vehicle in this state for a period of not less than two years nor more than six years. The revocation period may commence either on the date of the final decision of the department under section 17A.19 or the date on which the district court upholds the final decision of the department, whichever occurs later, or on the date the previous revocation expires.

Sec. 3. Section 321J.4, subsection 9, Code Supplement 1999, is amended to read as follows:

9. a. A person whose driver's license has either been revoked under this chapter, or revoked or suspended under chapter 321 solely for violations of this chapter, or who has been determined to be a habitual offender under chapter 321 based solely on violations of this chapter or on violations listed in section 321.560, subsection 1, paragraph "b", and who is not eligible for a temporary restricted license under this chapter may petition the court upon the expiration of the minimum period of ineligibility for a temporary restricted license provided for under this section, ~~or~~ section 321J.9, 321J.12, ~~or~~ 321J.20, or 321.560, for an order to the department to require the department to issue a temporary restricted license to the person notwithstanding section 321.560.

b. The petition shall include a current certified copy of the petitioner's official driving record issued by the department.

c. Upon the filing of a petition for a temporary restricted license under this section, the clerk of the district court in the county where the violation that resulted in the revocation occurred shall send notice of the petition to the department and the prosecuting attorney. The department and the prosecuting attorney shall each be given an opportunity to respond to and request a hearing on the petition.

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.

e. Section 321.561 does not apply to a person operating a motor vehicle in the manner permitted under this subsection.

f. If the person operates a motor vehicle which does not have an approved ignition interlock device or if the person tampers with or circumvents an ignition interlock device, in addition to other penalties provided, the person's temporary restricted license shall be revoked.

g. A person holding a temporary restricted license issued under this subsection shall not operate a commercial motor vehicle, as defined in section 321.1, on a highway if a commercial driver's license is required for the person to operate the commercial motor vehicle.

h. Notwithstanding any provision of this chapter to the contrary, the court may order the department to issue a temporary restricted license to a person otherwise eligible for a temporary restricted license under this subsection, whose period of revocation under this chapter has expired, but who has not met all requirements for reinstatement of the person's driver's license or nonresident operating privileges.

Sec. 4. NEW SECTION. 321J.2B PARENTAL AND SCHOOL NOTIFICATION — PERSONS UNDER EIGHTEEN YEARS OF AGE.

1. A peace officer shall make a reasonable effort to identify a person under the age of eighteen who violates section 321J.2 or 321J.2A, and if the person is not referred to juvenile court, the law enforcement agency of which the peace officer is an employee shall make a reasonable attempt to notify the person's custodial parent or legal guardian of the violation, whether or not the person is taken into custody, unless the officer has reasonable grounds to believe that notification is not in the best interests of the person or will endanger that person.

2. The peace officer shall also make a reasonable effort to identify the elementary or secondary school which the person attends if the person is enrolled in elementary or secondary school and to notify the superintendent or the superintendent's designee of the school which the person attends, or the authorities in charge of the nonpublic school which the person attends, of the violation. If the person is taken into custody, the peace officer shall notify a juvenile court officer who shall make a reasonable effort to identify the elementary or secondary school the person attends, if any, and to notify the superintendent of the school district or the superintendent's designee, or the authorities in charge of the nonpublic school, of the violation. A reasonable attempt to notify the person includes, but is not limited to, a telephone call or notice by first-class mail.

Sec. 5. Section 321J.22, subsections 2, 4, and 5, Code 1999, are amended to read as follows:

2. a. The course provided according to this section shall be offered on a regular basis at each community college as defined in section 260C.2, or by substance abuse treatment programs licensed under chapter 125. However, a community college shall not be required to offer the course if a substance abuse treatment program licensed under chapter 125 offers the course within the merged area served by the community college.

b. Enrollment in the courses is not limited to persons ordered to enroll, attend, and successfully complete the course required under sections 321J.2 and 321J.17, subsection 2. However, any person under age eighteen who is required to attend the courses for violation of section 321J.2 or 321J.17 must attend a course offered by a substance abuse treatment program licensed under chapter 125.

c. The course required by this section shall be: ~~taught~~

(1) Taught by ~~the~~ a community ~~colleges~~ college under the supervision of the department of education ~~and approved~~ or by a substance abuse treatment program licensed under chapter 125.

(2) Approved by the department of education, in consultation with the community colleges and substance abuse treatment programs licensed under chapter 125.

d. The department of education shall establish reasonable fees to defray the expense of obtaining classroom space, instructor salaries, and class materials for courses offered both by community colleges and by substance abuse treatment programs licensed under chapter 125.

e. A person shall not be denied enrollment in a course by reason of the person's indigency.

4. The department of education and substance abuse treatment programs licensed under chapter 125 shall prepare for their respective courses a list of the locations of the courses taught under this section, the dates and times taught, the procedure for enrollment, and the schedule of course fees. The list shall be kept current and a copy of the list shall be sent to each court having jurisdiction over offenses provided in this chapter.

5. The department of education and substance abuse treatment programs licensed under chapter 125 shall maintain enrollment, attendance, successful and nonsuccessful completion data for their respective courses on the persons ordered to enroll, attend, and successfully complete a course for drinking drivers. This data shall be forwarded to the court by both the department of education and substance abuse treatment programs licensed under chapter 125.

Approved April 21, 2000

CHAPTER 1139

FARMLAND IMPROVEMENTS NEAR PIPELINES

S.F. 2213

AN ACT relating to on-site presence of a pipeline company representative during farmland improvements near pipelines.

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

Section 1. Section 479.48, subsection 5, Code Supplement 1999, is amended to read as follows:

5. ~~If~~ Unless otherwise agreed to in writing by the landowner and the pipeline company, if a pipeline right-of-way is abandoned for pipeline use, but the pipe is not removed from the right-of-way, the pipeline company shall remain subject to section 479.49, shall remain responsible for the additional costs of subsequent tiling as provided for in section 479.47, shall mark the location of the line in response to a notice of proposed excavation in accordance with chapter 480, and shall remain subject to the damage provisions of this chapter in the event access to or excavation relating to the pipe is required. The landowner shall provide reasonable access to the pipeline in order to carry out the responsibilities of this subsection.

Sec. 2. NEW SECTION. 479.49 FARMLAND IMPROVEMENTS.

A landowner or contractor may require a representative of the pipeline company to be present on-site, at no charge to the landowner, at all times during each phase and separate activity related to a farmland improvement within fifty feet of either side of a pipeline. If the pipeline company and the landowner or contractor constructing the farmland improvement mutually agree that a representative of the pipeline company is not required to be present, the requirements of this section are waived in relation to the farmland improvement which would have otherwise made the requirements of this section applicable. A farmland improvement includes, but is not limited to, the terracing of farmland and tiling.

Sec. 3. Section 479A.27, subsection 5, Code Supplement 1999, is amended to read as follows:

5. ~~If~~ Unless otherwise agreed to in writing by the landowner and the pipeline company, if a pipeline right-of-way is abandoned for pipeline use, but the pipe is not removed from the right-of-way, the pipeline company shall remain subject to section 479A.28, shall remain responsible for the additional costs of subsequent tiling as provided for in section 479A.26, shall mark the location of the line in response to a notice of proposed excavation in accordance with chapter 480, and shall remain subject to the damage provisions of this chapter in the event access to or excavation relating to the pipe is required. The landowner shall provide reasonable access to the pipeline in order to carry out the responsibilities of this subsection.

Sec. 4. NEW SECTION. 479A.28 FARMLAND IMPROVEMENTS.
A landowner or contractor may require a representative of the pipeline company to be present on-site, at no charge to the landowner, at all times during each phase and separate activity related to a farmland improvement within fifty feet of either side of a pipeline. If the pipeline company and the landowner or contractor constructing the farmland improvement mutually agree that a representative of the pipeline company is not required to be present, the requirements of this section are waived in relation to the farmland improvement which would have otherwise made the requirements of this section applicable. A farmland improvement includes, but is not limited to, the terracing of farmland and tiling.

Sec. 5. Section 479B.32, subsection 5, Code Supplement 1999, is amended to read as follows:
5. ~~If~~ Unless otherwise agreed to in writing by the landowner and the pipeline company, if a pipeline right-of-way is abandoned for pipeline use, but the pipe is not removed from the right-of-way, the pipeline company shall remain subject to section 479B.33, shall remain responsible for the additional costs of subsequent tiling as provided for in section 479B.31, shall mark the location of the line in response to a notice of proposed excavation in accordance with chapter 480, and shall remain subject to the damage provisions of this chapter in the event access to or excavation relating to the pipe is required. The landowner shall provide reasonable access to the pipeline in order to carry out the responsibilities of this subsection.

Sec. 6. NEW SECTION. 479B.33 FARMLAND IMPROVEMENTS.
A landowner or contractor may require a representative of the pipeline company to be present on-site, at no charge to the landowner, at all times during each phase and separate activity related to a farmland improvement within fifty feet of either side of a pipeline. If the pipeline company and the landowner or contractor constructing the farmland improvement mutually agree that a representative of the pipeline company is not required to be present, the requirements of this section are waived in relation to the farmland improvement which would have otherwise made the requirements of this section applicable. A farmland improvement includes, but is not limited to, the terracing of farmland and tiling.

Approved April 25, 2000

CHAPTER 1140

PUBLIC HEALTH PROGRAMS AND ISSUES

S.F. 2302

AN ACT relating to programs and public health issues under the purview of the Iowa department of public health and the appropriation of certain fees to the department and providing an effective date.

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

Section 1. Section 22.7, Code Supplement 1999, is amended by adding the following new subsection:
NEW SUBSECTION. 39. Preliminary findings, reports of these preliminary findings, and investigative reports of the state medical examiner, resulting from the conducting of an autopsy. However, the date, time, specific location, and immediate facts and circumstances surrounding a crime or incident, related to a death that affects the public interest as defined

in section 331.802, shall not be kept confidential under this subsection, except if disclosure would plainly and clearly jeopardize an investigation or pose a clear and present danger to the public safety or the safety of an individual.

Sec. 2. Section 124.204, subsection 4, Code 1999, is amended by adding the following new paragraphs:

NEW PARAGRAPH. ad. Alpha-ethyltryptamine. Some trade or other names: etryptamine; Monase; a-ethyl-1H-indole-3-ethanamine; 3-(2-aminobutyl)indole; alpha-ET; and AET.

NEW PARAGRAPH. ae. 4-Bromo-2,5-dimethoxyphenethylamine. Some trade or other names: 2-(4-bromo-2,5-dimethoxyphenyl)-1-aminoethane; alpha-desmethyl DOB; 2C-B, Nexus.

Sec. 3. Section 124.204, subsection 6, Code 1999, is amended by adding the following new paragraphs:

NEW PARAGRAPH. f. Aminorex. Some other names: aminoxaphen; 2-amino-5-phenyl-2-oxazoline; 4,5-dihydro-5-phenyl-2-oxazolamine.

NEW PARAGRAPH. g. Methcathinone. Some other names: 2-(methylamino)-propiophenone; alpha-(methylamino)propiophenone; 2-(methylamino)-1-phenylpropan-1-one; alpha-N-methylaminopropiophenone; monomethylpropion; ephedrone; N-methylcathinone; methylcathinone; AL-464; AL-422; AL-463; and UR1432.

Sec. 4. Section 124.204, subsection 9, paragraphs c, d, and e, Code 1999, are amended by striking the paragraphs.

Sec. 5. Section 124.206, subsection 2, paragraph a, unnumbered paragraph 1, Code 1999, is amended to read as follows:

Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate, excluding apomorphine, ~~dextrophan~~ thebaine-derived butorphanol, dextrorphan, nalbuphine, nalmefene, naloxone, and naltrexone, and their respective salts, but including the following:

Sec. 6. Section 124.206, subsection 3, Code 1999, is amended by adding the following new paragraph:

NEW PARAGRAPH. aa. Remifentanil.

Sec. 7. Section 124.206, subsection 7, paragraph b, Code 1999, is amended by striking the paragraph.

Sec. 8. Section 124.208, subsection 3, Code 1999, is amended by adding the following new paragraph:

NEW PARAGRAPH. l. Ketamine, its salts, isomers, and salts of isomers. Some other names for ketamine: (+-)-2-(2-chlorophenyl)-2-(methylamino)-cyclohexanone.

Sec. 9. Section 124.208, subsection 6, paragraphs b, e, and i, Code 1999, are amended to read as follows:

b. Chlorotestosterone (4-chlortestosterone).

e. Dihydrotestosterone (4-dihydrotestosterone).

i. ~~Formobulone~~ Formebulone (formebolone).

Sec. 10. Section 124.208, Code 1999, is amended by adding the following new subsection:

NEW SUBSECTION. 8. HALLUCINOGENIC SUBSTANCES. Dronabinol (synthetic) in sesame oil and encapsulated in a soft gelatin capsule in a United States Food and Drug Administration approved product. Some other names for dronabinol: (6aR-trans)-6a, 7, 8, 10a-tetrahydro-6, 6, 9-trimethyl-3-pentyl-6H-dibenzo [b,d] pyran-1-ol, or (-)-delta-9-(trans)-tetrahydrocannabinol.

Sec. 11. Section 124.210, subsection 2, paragraph b, Code 1999, is amended to read as follows:

b. Dextropropoxyphene ~~(alpha-(+)-4-dimethylamindiphendiphenyl-3-methyl-2-propionoxybutane)~~ (alpha-(+)-4-dimethylamino-1,2-diphenyl-3-methyl-2-propionoxybutane).

Sec. 12. Section 124.210, subsection 3, Code 1999, is amended by adding the following new paragraph:

NEW PARAGRAPH. aw. Zaleplon.

Sec. 13. Section 124.210, subsection 5, Code 1999, is amended by adding the following new paragraphs:

NEW PARAGRAPH. k. Modafinil.

NEW PARAGRAPH. l. Sibutramine.

Sec. 14. Section 124.210, subsection 6, Code 1999, is amended by adding the following new paragraph:

NEW PARAGRAPH. b. Butorphanol (including its optical isomers).

Sec. 15. Section 124.212, subsection 5, unnumbered paragraph 1, Code 1999, is amended to read as follows:

Ephedrine. Unless specifically excepted in paragraph "b" or "c", or listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substance, including its salts, optical isomers, and salts of such optical isomers:

Sec. 16. Section 124.212, subsection 5, Code 1999, is amended by adding the following new paragraph:

NEW PARAGRAPH. c. A dietary supplement is also excepted from this schedule, if the dietary supplement is not otherwise prohibited by any other law and is a naturally occurring ephedrine alkaloid or associated salts, isomers, salts of isomers, or a combination of these substances that are contained in a matrix of organic material and do not exceed fifteen percent of the total weight of the natural product.

Sec. 17. Section 124B.2, subsection 1, paragraphs a, c, g, and i, Code 1999, are amended to read as follows:

a. Anthranilic acid, its esters, and its salts.

c. ~~Ephedrine, its salts, optical isomers, and salts of optical isomers~~ Ethylamine and its salts.

g. N-acetylanthranilic acid, its esters, and its salts.

i. Phenylacetic acid, its esters, and its salts.

Sec. 18. Section 124B.2, subsection 1, Code 1999, is amended by adding the following new paragraphs:

NEW PARAGRAPH. m. Methylamine and its salts.

NEW PARAGRAPH. n. Propionic anhydride.

NEW PARAGRAPH. o. Insosafrole.

NEW PARAGRAPH. p. Safrole.

NEW PARAGRAPH. q. Piperonal.

NEW PARAGRAPH. r. N-methylephedrine, its salts, optical isomers, and salts of optical isomers.

NEW PARAGRAPH. s. N-methylpseudoephedrine, its salts, optical isomers, and salts of optical isomers.

NEW PARAGRAPH. t. Hydriodic acid.

NEW PARAGRAPH. u. Benzaldehyde.

NEW PARAGRAPH. v. Nitroethane.

Sec. 19. Section 125.14, Code 1999, is amended to read as follows:

125.14 LICENSES — RENEWAL — FEES.

The commission shall meet to consider all cases involving initial issuance, and renewal, denial, suspension, or revocation of a license. The department shall issue a license to an applicant who the commission determines meets the licensing requirements of this chapter. Licenses shall expire no later than two years from the date of issuance and shall be renewed upon timely application made in the same manner as for ~~original~~ initial issuance of a license unless notice of nonrenewal is given to the licensee at least thirty days prior to the expiration of the license. The department shall not charge a fee for licensing or renewal of programs contracting with the department for provision of treatment services. A fee may be charged to other licensees.

Sec. 20. Section 125.15, Code 1999, is amended to read as follows:

125.15 INSPECTION OF LICENSEES.

The department ~~shall~~ may inspect the facilities and review the procedures utilized by ~~each licensed program~~ any chemical substitutes or antagonists program, residential program, or nonresidential outpatient program that has as a primary purpose the treatment and rehabilitation of substance abusers or chronic substance abusers, for the purpose of ensuring compliance with this chapter and the rules adopted pursuant to this chapter. The examination and review may include case record audits and interviews with staff and patients, consistent with the confidentiality safeguards of state and federal law.

Sec. 21. NEW SECTION. 135.30A BREASTFEEDING IN PUBLIC PLACES.

Notwithstanding any other provision of law to the contrary, a woman may breast-feed the woman's own child in any public place where the woman's presence is otherwise authorized.

Sec. 22. Section 135.105C, Code 1999, is amended to read as follows:

135.105C RENOVATION, REMODELING, AND REPAINTING — LEAD HAZARD NOTIFICATION PROCESS ESTABLISHED.

1. A person who performs renovation, remodeling, or repainting services of ~~targeted~~ target housing for compensation shall provide an approved lead hazard information pamphlet to the owner and occupant of the housing prior to commencing the services.

2. For the purpose of this section, "~~targeted~~ target housing" means housing constructed prior to 1978 with the exception of housing for the elderly or for persons with disabilities and housing that does not contain a bedroom, unless at least one child, under six years of age ~~or less~~, resides or is expected to reside in the housing~~, and housing which does not contain a bedroom~~. The department shall adopt rules to implement the renovation, remodeling, and repainting lead hazard notification process.

Sec. 23. Section 135.107, subsection 3, unnumbered paragraph 1, Code 1999, is amended to read as follows:

The center for rural health and primary care shall establish a primary care provider recruitment and retention endeavor, to be known as PRIMECARRE. The endeavor shall include a community grant program, a primary care provider loan repayment program, and a primary care provider community scholarship program~~, and the establishment of area health education centers~~. The endeavor shall be developed and implemented in a manner to promote and accommodate local creativity in efforts to recruit and retain health care professionals to provide services in the locality. The focus of the endeavor shall be to promote and assist local efforts in developing health care provider recruitment and retention programs. Eligibility under any of the programs established under the primary care provider recruitment and retention endeavor shall be based upon a community health services assessment completed under subsection 2, paragraph "a". A community or region, as applicable, shall submit a letter of intent to conduct a community health services assessment and to apply for assistance under this subsection. The letter shall be in a form and contain information as determined by the center. A letter of intent shall be submitted to the center by January 1

preceding the fiscal year for which an application for assistance is to be made. Assistance under this subsection shall not be granted until such time as the community or region making application has completed the community health services assessment and adopted a long-term community health services assessment and developmental plan. In addition to any other requirements, a developmental plan shall include a clear commitment to informing high school students of the health care opportunities which may be available to such students.

Sec. 24. Section 135.107, subsection 3, paragraph d, Code 1999, is amended by striking the paragraph.

Sec. 25. Section 135.107, subsection 4, Code 1999, is amended by striking the subsection.

Sec. 26. Section 141A.6, subsection 6, paragraph e, Code Supplement 1999, is amended to read as follows:

e. The race ~~or~~ and ethnicity of the patient.

Sec. 27. Section 141A.8, subsection 1, Code Supplement 1999, is amended by striking the subsection and inserting in lieu thereof the following:

1. If a care provider in the course of providing care sustains a significant exposure on the premises of a health facility or while engaged in rendering aid or providing transportation to an individual in circumstances which lead to the individual's presence at a health facility, the individual to whom the care provider was exposed is deemed to consent to a test to be administered by the health facility upon the submission of a significant exposure report by the exposed care provider for the express purpose of determining the presence of HIV infection in that individual and notifying the health care provider of the HIV test results of the individual. The sample and test results shall only be identified by a number and no reports otherwise required by this chapter shall be made which identify the individual tested. However, if the test results are positive, the health facility shall notify the individual tested 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.

Sec. 28. Section 141A.8, subsection 7, Code Supplement 1999, is amended by striking the subsection.

Sec. 29. Section 141A.8, subsection 9, Code Supplement 1999, is amended to read as follows:

9. Notifications made pursuant to this section shall not disclose the identity of the individual who is diagnosed or confirmed as having HIV infection unless the individual provides a specific written release ~~as provided in subsection 1, paragraph "b"~~. If the care provider determines the identity of the individual, 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.

Sec. 30. Section 147.5, Code 1999, is amended to read as follows:

147.5 FORM.

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 board which conducts examinations for that particular profession. ~~The number of the book and page containing the entry of said license in the office of the department shall be noted on the face of the license.~~

Sec. 31. Section 147.40, Code 1999, 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, 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 ~~and make the required entry in the registry book~~.

Sec. 32. Section 148.5, Code 1999, 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 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. ~~Such~~ A license shall be valid for ~~one year and may be renewed at the discretion of the medical examiners~~ a duration as determined by the board. The fee for each license shall be set by the medical examiners to cover the administrative costs of issuing the license~~, and if extended beyond one year, a renewal fee as set by the medical examiners shall be required~~. The medical examiners shall determine in each instance those eligible for a license, whether or not examinations shall be given, and the type of examinations. ~~No requirements~~ 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. The granting of a resident physician license does not in any way indicate that the person ~~so~~ licensed is necessarily eligible for regular permanent licensure, nor are the medical examiners in any way obligated to ~~so~~ license ~~such~~ the individual.

Sec. 33. Section 148A.6, subsection 3, paragraph c, Code 1999, is amended by striking the paragraph.

Sec. 34. NEW SECTION. 148B.3A OCCUPATIONAL THERAPY — REFERRAL.

Occupational therapy may be provided by an occupational therapist without referral from a physician, podiatric physician, dentist, or chiropractor, except that a hospital may require that occupational therapy provided in the hospital be performed only following prior review by and authorization of the performance of the occupational therapy by a member of the hospital medical staff.

Sec. 35. Section 148B.5, subsection 1, paragraph a, subparagraph (1), Code 1999, is amended to read as follows:

(1) For an occupational therapist, the program must be one accredited by the ~~American medical association in collaboration with~~ accreditation council for occupational therapy education of the American occupational therapy association.

Sec. 36. Section 150A.9, Code 1999, 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 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. A license shall be valid for ~~one year and may be renewed at the discretion of the medical examiners~~ a duration as determined by the board. The fee for each license shall be set by the medical examiners and based on the administrative cost of issuing the license~~, and if ex-~~

~~tended beyond one year, a renewal fee shall be required~~. The medical examiners shall determine in each instance those eligible for a license, whether or not examinations shall be given, and the type of examinations. ~~No requirements~~ 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. The granting of a resident osteopathic physician and surgeon's license does not in any way indicate that the person ~~so~~ licensed is necessarily eligible for regular permanent licensure, nor are the medical examiners in any way obligated to ~~so~~ license ~~such~~ the individual.

Sec. 37. Section 152.7, unnumbered paragraph 2, Code 1999, is amended by striking the unnumbered paragraph.

Sec. 38. Section 154A.11, unnumbered paragraph 2, Code 1999, is amended to read as follows:

All examinations in theory shall be in writing and the identity of the person taking the examination shall be concealed until after the examination papers have been graded. ~~For examinations in practice, the identity of the person taking the examination shall also be concealed as far as possible.~~

Sec. 39. Section 154A.12, subsections 2, 5, and 6, Code 1999, are amended by striking the subsections.

Sec. 40. Section 154C.3, subsection 1, paragraph c, subparagraph (1), Code 1999, is amended to read as follows:

(1) Possesses a master's or doctoral degree in social work from an accredited college or university approved by the board.

Sec. 41. Section 156.4, subsections 4 and 5, Code 1999, are amended to read as follows:

4. Written ~~and oral~~ examinations for a funeral director's license shall be held at least once a year at a time and place to be designated by the board. The examination shall include the subjects of funeral directing, burial or other disposition of dead human bodies, sanitary science, embalming, restorative art, anatomy, public health, transportation, business ethics, and such other subjects as the board may designate.

5. After the applicant ~~shall have~~ has completed satisfactorily the course of instruction in mortuary science in an accredited school approved by the board, the applicant must pass the examination prescribed by the board as provided in section 147.34. The applicant may then receive an internship certificate and shall then complete a minimum one-year internship as determined by the board. ~~After completion of the internship, the applicant shall demonstrate proficiency as directed by the board.~~

Sec. 42. NEW SECTION. 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. 43. Section 331.605, subsection 6, Code Supplement 1999, is amended to read as follows:

6. For filing an application for the license to marry, ~~thirty~~ thirty-five dollars, which includes payment for one certified copy of the original certificate of marriage, to be issued following filing of the original certificate of marriage, four dollars of which shall be retained by the county pursuant to subsection 5. For issuing an application for an order of the district court authorizing the validation of a license to marry before the expiration of three days from the date of issuance of the license, five dollars. The district court shall authorize the early validation of a marriage license without the payment of any fees imposed in this subsection upon showing that the applicant is unable to pay the fees.

Sec. 44. Section 595.13, Code 1999, is amended to read as follows:

595.13 CERTIFICATE — RETURN.

After the marriage has been solemnized, the officiating minister or magistrate shall:

~~1. Give each of the parties a certificate of the same.~~

~~2. Make~~ return ~~of~~ the certificate of marriage within fifteen days to the county registrar, who issued the marriage license upon the blank provided for that purpose.

Sec. 45. NEW SECTION. 595.16A. ISSUANCE OF CERTIFIED COPY OF CERTIFICATE OF MARRIAGE.

Following receipt of the original certificate of marriage pursuant to section 144.36, the county registrar shall issue a certified copy of the original certificate of marriage to the parties to the marriage.

Sec. 46. Section 691.6, Code Supplement 1999, is amended by adding the following new subsections:

NEW SUBSECTION. 4. To collect autopsy fees as established by rule and the fees are appropriated to the state medical examiner. Notwithstanding section 8.33, any fees collected by the state medical examiner that remain unexpended at the end of the fiscal year shall not revert to the general fund of the state.

NEW SUBSECTION. 5. To conduct an inquiry, investigation, or hearing and administer oaths and receive testimony under oath relative to the matter of inquiry, investigation, or hearing, and to subpoena witnesses and require the production of records, papers, and documents pertinent to the death investigation. However, the medical examiner shall not conduct any activity pursuant to this subsection, relating to a homicide or other criminally suspicious death, without coordinating such activity with the county medical examiner, and without obtaining approval of the investigating law enforcement agency, the county attorney, or any other prosecutorial or law enforcement agency of the jurisdiction to conduct such activity.

NEW SUBSECTION. 6. To adopt rules pursuant to chapter 17A relating to the duties, responsibilities, and operations of the office of the state medical examiner and to specify the duties, responsibilities, and operations of the county medical examiner in relationship to the office of the state medical examiner.

Sec. 47. Section 135.19, Code 1999, is repealed.

Sec. 48. STUDY — NEEDLESTICK PROTECTION. The Iowa department of public health, in cooperation with the labor commissioner, shall conduct a study of state and federal laws and regulations relating to protection of persons who may be at risk of needlestick injuries in the course of employment. The study shall include the review of the current national institute for occupational safety and health of the centers for disease control and prevention recommendations to reduce workplace needlestick injuries. The department shall submit a report to the governor and the general assembly by December 15, 2000, which shall include any recommendations for changes in state law or rules, which are not in conflict with federal law or regulations, to improve protective measures relating to needlestick injuries.

Sec. 49. EFFECTIVE DATE. The sections of this Act amending section 331.605, subsection 6, and enacting section 595.16A, take effect January 1, 2001.

Approved April 25, 2000

CHAPTER 1141

STATE INFORMATION TECHNOLOGY

S.F. 2395

AN ACT relating to the creation of an information technology department and making related changes and providing an effective date.

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

Section 1. LEGISLATIVE FINDINGS. The general assembly finds and declares all of the following:

1. Information technology resources in state government are valuable strategic assets belonging to the citizens of Iowa and must be managed accordingly.

2. State agencies independently acquire duplicative information technologies that would be more appropriately coordinated for maximum cost-effectiveness, maximized service, and efficiency.

3. Considerations of both cost and the need for the transfer of information among the various agencies and branches of state government in the most timely and useful form possible require uniform standards and coordinated systems for the use of information technologies.

4. The appropriate use of information technology by the state can improve operational productivity, reduce the cost of government, enhance service to the citizens of Iowa, and make government more accessible to the public.

5. The use of information technology to provide government services directly to citizens can be a cost-effective method of delivering such services.

6. Planning, protection, and direction for information technology resources must be enacted to accomplish all of the following:

a. Ensure the effective application of information technology on state business operations.

b. Ensure the quality, security, and integrity of state business operations.

c. Enhance privacy to the citizens of the state.

7. Standards for information technology must be developed and implemented to ensure the appropriate acquisition of information technology and to effectively manage the state's information technology resources.

8. The state must provide information technology infrastructure coordination, technical directions, and a proficient organizational management structure to facilitate the productive application of information technology and resources to accomplish the missions and goals of state government.

9. Oversight of large-scale systems or projects is necessary to protect the state's investment and to ensure appropriate integration with existing or planned systems.

10. Appropriate public-private partnerships to supplement existing resources must be developed as a strategy for the state to comprehensively meet its information technology needs.

11. Establishment of an information technology department is necessary to achieve the goals identified in this section, to effectively plan for, develop, and manage information technology and related resources, and to assure that the needs of the citizens of this state, as well as the state's needs, are met.

Sec. 2. NEW SECTION. 14B.101 DEFINITIONS.

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

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

a. The office of the governor or the office of an elective constitutional or statutory officer.

b. The general assembly, or any office or unit under its administrative authority.

c. The judicial branch, as provided in section 602.1102.

d. A political subdivision of the state or its offices or units, including but not limited to a county, city, or community college.

2. "Director" means the director of the information technology department appointed as provided in section 14B.103.

3. "Governmental entity" means any unit of government in the executive, legislative, or judicial branches of government; an agency or political subdivision; any unit of another state government, including its political subdivisions; and any unit of the United States government.

4. "Information technology" means computing and electronics applications used to process and distribute information in digital and other forms and includes information technology devices and information technology services.

5. "Information technology council" means the information technology council established in section 14B.104.

6. "Information technology device" means equipment or associated software, including programs, languages, procedures, or associated documentation, used in operating the equipment which is designed for utilizing information stored in an electronic format. "Information technology device" includes but is not limited to computer systems, computer networks, and equipment used for input, output, processing, storage, display, scanning, and printing.

7. "Information technology services" means services designed to do any of the following:

a. Provide functions, maintenance, and support of information technology devices.

b. Provide services including, but not limited to, any of the following:

(1) Computer systems application development and maintenance.

(2) Systems integration and interoperability.

(3) Operating systems maintenance and design.

(4) Computer systems programming.

(5) Computer systems software support.

(6) Planning and security relating to information technology devices.

(7) Data management consultation.

(8) Information technology education and consulting.

(9) Information technology planning and standards.

(10) Establishment of local area network and workstation management standards.

8. "Participating agency" means any agency other than any of the following:

a. The state board of regents and institutions operated under the authority of the state board of regents.

b. The public broadcasting division of the department of education.

c. The state department of transportation mobile radio network.

d. The department of public safety law enforcement communications systems.

e. The Iowa telecommunications and technology commission established in section 8D.3, with respect to information technology that is unique to the Iowa communications network.

9. "Public records" means the same as defined in section 22.1.

10. "Value-added services" means government information which requires special sorts or formatting, or other action to provide such information, or to provide access to government information which is responsive to special requests for multiple government records in customized formats.

Sec. 3. NEW SECTION. 14B.102 DEPARTMENT ESTABLISHED — MISSION — POWERS AND DUTIES.

1. DEPARTMENT ESTABLISHED. The information technology department is established as a state department. The mission of the department is to foster the development and application of information technology to improve the lives of Iowans.

2. POWERS AND DUTIES OF DEPARTMENT. The powers and duties of the department shall include, but are not limited to, all of the following:

a. Providing information technology to participating agencies and other governmental entities as provided in this chapter.

b. Implementing the strategic information technology plan as prepared and updated by the information technology council.

c. Developing and implementing a business continuity plan, as the director determines is appropriate, to be used if a disruption occurs in the provision of information technology to participating agencies and other governmental entities.

d. Developing and implementing recommended standards for information technology, including but not limited to system design and systems integration and interoperability, which when implemented shall apply to all participating agencies except as otherwise provided in this chapter. The department shall implement information technology standards as established pursuant to this chapter which are applicable to information technology procurements for participating agencies.

e. Recommending and implementing standards for an electronic repository for maintaining mandated agency reports as provided in section 304.13A. Such repository shall be developed and maintained for the purpose of providing public access to such mandated reports. The department shall develop such standards in consultation with the state librarian.

f. Developing and maintaining security policies and systems to ensure the integrity of the state's information resources and to prevent the disclosure of confidential records.

g. Developing and implementing effective and efficient strategies for the use and provision of information technology for participating agencies and other governmental entities.

h. Coordinating the acquisition of information technology by participating agencies in furtherance of the purposes of this chapter. The information technology department shall review a request for information technology submitted by a participating agency for purposes of determining whether such request meets the applicable standards established pursuant to this chapter. Upon a determination that the request meets such standards, the information technology shall be procured for the participating agency by the department of general services. Nothing in this chapter shall be construed to prohibit or limit a participating agency from entering into an agreement or contract for information technology with a qualified private entity.

i. Entering into agreements pursuant to chapter 28D or 28E, or memorandums of understanding or other agreements as necessary and appropriate to administer this chapter.

j. Establishing and maintaining, in cooperation with the department of revenue and finance and the department of general services, an inventory of information technology devices used by participating agencies and other governmental entities using the information technology department's services. The information technology department may request a participating agency to provide such information as is necessary to establish and maintain an inventory as required under this paragraph, and such participating agency shall provide such information to the department in a timely manner.

3. SERVICE CHARGES. The department shall render a statement to a participating agency or other governmental entity for a reasonable and necessary amount for information technology provided by the department to such agency or entity. An amount indicated on a statement rendered to a participating agency or other governmental entity shall be paid by such agency or entity in a manner determined by the department of revenue and finance. Amounts charged and paid pursuant to this subsection shall be deposited in the general fund of the state. It is the intent of the general assembly that the general assembly make amounts collected pursuant to this subsection available to the department for the department's operational expenses. Such amounts shall not be available to the department except pursuant to enactment by the general assembly which is signed by the governor.[1]

4. DISPUTE RESOLUTION. If a dispute arises between the department or information technology council and an agency for which the department provides or refuses to provide information technology, the dispute shall be resolved as provided in section 679A.19.

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[1] See chapter 1226, §7 herein

Sec. 4. NEW SECTION. 14B.103 DIRECTOR — POWERS AND DUTIES.

1. DIRECTOR APPOINTED. The chief administrative officer of the department is the director. The director shall be appointed by the governor, subject to confirmation by the senate. The director shall serve at the pleasure of the governor. The governor shall set the salary of the director within the applicable salary range established by the general assembly. The director shall be selected on the ability to administer the duties and functions granted to the director and the department and shall devote full time to the duties of the director. If the office of director becomes vacant, the vacancy shall be filled in the same manner as the original appointment was made.

The director shall also serve as the chief information officer for the state.

2. POWER AND DUTIES. The director of the department shall do all of the following:

a. Plan, direct, coordinate, and execute the functions necessary to carry out the duties of the department.

b. Provide overall supervision, direction, and coordination of functions of the department.

c. Employ personnel as necessary to carry out the functions vested in the department consistent with chapter 19A and enhance the recruitment, retention, and training of professional staff.

d. Supervise and manage employees of the department, and provide for the internal organization of the department and for the allocation of functions within the department consistent with section 7E.2.

e. Recommend to the information technology council an annual budget for the department.

f. Recommend to the information technology council rules deemed necessary for the implementation of this chapter and proper administration of the department.

g. Recommend to the information technology council information technology standards.

h. Develop and implement operational policies of the department and be responsible for the day-to-day operations of the department.

i. Develop and recommend to the information technology council legislative proposals deemed necessary for the continued efficiency of department functions, and review legislative proposals generated outside of the department which are related to matters within the department's purview.

j. Provide advice to the governor on issues related to information technology.

k. Consult with agencies and other governmental entities on issues relating to information technology.

l. Work with all governmental entities in an effort to achieve the information technology goals established by the information technology council.

3. DELEGATION OF POWERS AND DUTIES. Powers and duties vested in the director may be delegated by the director to an employee of the department, but the director retains the responsibility for an employee's acts within the scope of the delegation.

4. APPEAL OF DIRECTOR'S DECISION. A decision by the director may be appealed to the information technology council. A person aggrieved by such decision of the director shall provide notice of such appeal to the information technology council within thirty calendar days of the decision of the director. An appeal of a decision of the director shall be treated as a contested case under chapter 17A.

Sec. 5. NEW SECTION. 14B.104 INFORMATION TECHNOLOGY COUNCIL — MEMBERS — POWERS AND DUTIES.

1. MEMBERSHIP.

a. An information technology council is established with the authority to oversee the department and information technology activities of participating agencies as provided in this chapter. The information technology council is composed of seventeen members including the following:

(1) The director of the information technology department.

(2) The administrator of the public broadcasting division of the department of education.

(3) The chairperson of the IowAccess advisory council established in section 14B.201, or the chairperson's designee.

(4) The state technology advisor in the department of economic development.

(5) The executive director of the Iowa communications network, or the executive director's designee.

(6) Two executive branch department heads appointed by the governor.

(7) Five persons appointed by the governor who are knowledgeable in information technology matters.

(8) One person representing the judicial branch appointed by the chief justice of the supreme court who shall serve in an ex officio, nonvoting capacity.

(9) Four members of the general assembly with not more than one member from each chamber being from the same political party. The two senators shall be designated by the president of the senate after consultation with the majority and minority leaders of the senate. The two representatives shall be designated by the speaker of the house of representatives after consultation with the majority and minority leaders of the house of representatives. Legislative members shall serve in an ex officio, nonvoting capacity. A legislative member is eligible for per diem and expenses as provided in section 2.10.

b. The members appointed by the governor pursuant to paragraph "a", subparagraphs (3) through (7), shall serve four-year staggered terms as designated by the governor and such appointments to the information technology council are subject to the requirements of sections 69.16, 69.16A, and 69.19. Members appointed by the governor pursuant to paragraph "a", subparagraphs (3) through (7), shall not serve consecutive four-year terms. Members appointed by the governor are subject to senate confirmation and shall be reimbursed for actual and necessary expenses incurred in performance of their duties. Such members may also be eligible to receive compensation as provided in section 7E.6.

The information technology council shall annually elect its own chairperson from among the voting members of the council other than the director of the information technology department.

2. DUTIES. The information technology council shall do all of the following:

a. Adopt rules in accordance with chapter 17A which are necessary for the exercise of the powers and duties granted by this chapter and the proper administration of the department.

b. Develop recommended standards for consideration with respect to the procurement of information technology by all participating agencies.

c. Appoint advisory committees as appropriate to assist the information technology council in developing strategies for the use and provision of information technology and establishing other advisory committees as necessary to assist the information technology council in carrying out its duties under this chapter. The number of advisory committees and their membership shall be determined by the information technology council to assure that the public and agencies and other governmental entities have an opportunity to comment on the services provided and the service goals and objectives of the department.

d. Prepare and annually update a strategic information technology plan for the use of information technology throughout state government. The plan shall promote participation in cooperative projects with other governmental entities. The plan shall establish a mission, goals, and objectives for the use of information technology, including goals for electronic access to public records, information, and services. The plan shall be submitted annually to the governor and the general assembly.

e. Review and recommend to the general assembly, as deemed appropriate by the information technology council, legislative proposals recommended by the director, or other legislative proposals as developed and deemed necessary by the information technology council.

f. Review the recommendations of the IowAccess advisory council regarding rates to be charged for access to and for value-added services performed through IowAccess, and make recommendations to the general assembly regarding such rates. A rate shall not be approved or charged unless approved by act of the general assembly.

g. Review and approve, as deemed appropriate by the information technology council, the annual budget recommendation for the department as proposed by the director.

3. WAIVER. The information technology council, upon the written request of a participating agency and for good cause shown, may grant a waiver from a requirement otherwise applicable to a participating agency relating to an information technology standard established by the information technology council.

4. FINAL AGENCY ACTION. A decision by the council is a final agency action as provided under chapter 17A and an appeal of the decision shall be made directly to the district court. Any party to a contested case may appeal the decision to the district court.

Sec. 6. NEW SECTION. 14B.105 DIVISIONS OF THE DEPARTMENT — RESPONSIBILITIES.

1. a. The department shall include the following divisions:

(1) A policy and planning division which is responsible for the integration of information technology into all business aspects of state government. The division shall cooperate with the customer liaison division to coordinate the activities of both divisions in promoting, integrating, and supporting information technology in all business aspects of state government.

(2) An operations division which is responsible for providing all of the following:

(a) Server systems, including mainframe and other server operations.

(b) Desktop support.

(c) Applications integration.

(3) A customer liaison division which is responsible for support and promotion of departmental services and information technology, and for providing applications development, support, and training, and advice and assistance in developing and supporting business applications throughout state government. The division shall cooperate with the policy and planning division to coordinate the activities of both divisions in promoting, integrating, and supporting information technology in all business aspects of state government.

(4) An administration division which is responsible for the financial, personnel, and other administrative functions of the department. The administration division is also responsible for all information technology purchasing and contract administration for the information technology department.

b. Each division established under paragraph "a" shall be headed by an administrator appointed by the governor subject to confirmation by the senate. An administrator appointed pursuant to this paragraph shall serve at the pleasure of the governor, except that an administrator shall not serve for a term greater than three years unless reappointed by the governor. An administrator shall report to the director regarding the day-to-day operations of the division headed by the administrator, and the performance of the administrator's duties. 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. An administrator may hire other assistants and employees as necessary to carry out the duties of the division.

2. Notwithstanding subsection 1, the department shall also include the following subunits:

a. A digital government bureau as provided for in section 14B.106.

b. An IowAccess advisory council as provided for in section 14B.201.

Sec. 7. NEW SECTION. 14B.106 DIGITAL GOVERNMENT BUREAU.

1. A digital government bureau is established within the department which shall be headed by an administrator appointed by the governor subject to confirmation by the senate. The administrator shall serve a three-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 shall report to the director regarding the day-to-day operations of the bureau and the performance of the administrator's duties. The administrator may hire other assistants and employees as necessary to carry out the bureau's duties.

2. The bureau is responsible for initiating and supporting the development of electronic commerce, electronic government, and internet applications across participating agencies and in cooperation with other governmental entities.

3. The bureau shall do all of the following:

a. Recommend standards to the information technology council, consistent with other state law, for the implementation of electronic commerce, including standards for digital signatures, electronic currency, and other items associated with electronic commerce.

b. Recommend guidelines to the information technology council for the appearance and functioning of applications.

c. Recommend standards to the information technology council for the integration of electronic data across state agencies.

d. Foster joint development of electronic commerce and electronic government involving the public and private sectors.

e. Develop customer surveys and citizen outreach and education programs and material, and provide for citizen input regarding the state's electronic commerce and electronic government applications.

f. Provide staff support for the IowAccess advisory council.

Sec. 8. NEW SECTION. 14B.107 INFORMATION TECHNOLOGY STANDARDS.

The information technology council shall develop recommended standards for consideration with respect to the procurement of information technology by all participating agencies. It is the intent of the general assembly that information technology standards be established for the purpose of guiding such procurements. Such standards, unless waived by the council, shall apply to all information technology procurements for participating agencies.

The office of the governor or the office of an elective constitutional or statutory officer shall consult with the department prior to procuring information technology and consider the standards recommended by the council, and provide a written report to the department relating to the office's decision regarding such acquisitions.

Sec. 9. NEW SECTION. 14B.108 PROCUREMENT OF INFORMATION TECHNOLOGY.

1. Notwithstanding the provisions of this section, the information technology department and the department of general services shall enter into an interagency agreement regarding the division of responsibilities between the departments associated with the procurement of information technology which is acceptable to both departments. The interagency agreement shall be subject to renegotiation at least every two years, unless an earlier time is provided for in the interagency agreement. If the departments are unable to agree on the terms of an interagency agreement or upon a failure of either department to satisfy the terms of the agreement, the departments shall inform the department of management that an agreement has not been reached or that one of the departments has failed to satisfy the terms of the agreement. The department of management, upon receipt and review of such information, may direct the information technology department to proceed with the procurement of information technology as provided in subsections 2 through 5.

2. a. Standards established by the council, unless waived pursuant to section 14B.104, shall apply to all information technology procurements for participating agencies.

b. A participating agency shall submit a request to the department for the procurement of any information technology. The department, prior to any acquisition of such information technology, shall make a determination whether the requested information technology complies with the information technology standards established by the information technology council.

The information technology department, at the request of a participating agency other than a participating agency that is granted independent procurement authority, shall acquire the information technology for the participating agency requesting such information technology if it is determined to be compliant with the standards established by the information technology council.

A participating agency that is granted independent procurement authority, upon a determination by the information technology department that a proposed information technology acquisition complies with the information technology standards established by the information technology council, may proceed with such acquisition. The information technology department shall provide advice to such participating agency regarding the procurement of such information technology, including any opportunity to aggregate such purchases with other participating agencies.

c. If a determination is made that the information technology does not comply with such standards, the department shall disapprove the request and such information technology shall not be procured unless a waiver is granted pursuant to section 14B.104.

3. The information technology department, by rule, may implement a prequalification procedure for contractors which the department has entered or intends to enter into agreements regarding the procurement of information technology.

4. Notwithstanding the provisions of chapter 18, the department may procure information technology as provided in this section. The department may cooperate with other governmental entities in the procurement of information technology in an effort to make such procurements in a cost-effective, efficient manner as provided in this section. The department, as deemed appropriate and cost-effective, may procure information technology using any of the following methods:

a. Cooperative procurement agreement. The department may enter into a cooperative procurement agreement with another governmental entity for the purpose of pooling funds for the purchase of information technology, whether such information technology is for the use of the department or multiple governmental entities. The cooperative procurement agreement shall clearly specify the purpose of the agreement and the method by which such purpose will be accomplished. Any power exercised under such agreement shall not exceed the power granted to any party to the agreement.

b. Negotiated contract. The department may enter into an agreement for the purchase of information technology if any of the following applies:

(1) The contract price, terms, and conditions are pursuant to the current federal supply contract, and the purchase order adequately identifies the federal supply contract under which the procurement is to be made.

(2) The contract price, terms, and conditions are no less favorable than the contractor's current federal supply contract price, terms, and conditions; the contractor has indicated in writing a willingness to extend such price, terms, and conditions to the department; and the purchase order adequately identifies the contract relied upon.

(3) The contract is with a vendor which has a current exclusive or nonexclusive price agreement with the state for the information technology to be procured, and such information technology meets the same standards and specifications as the items to be procured and both of the following apply:

(a) The quantity purchased does not exceed the quantity which may be purchased under the applicable price agreement.

(b) The purchase order adequately identifies the price agreement relied upon.

c. Contracts let by another government entity. The department, on its own behalf or on the behalf of another participating agency, may procure information technology under a contract let by another state agency or political subdivision of this state, or approve such procurement in the same manner by a participating agency.

d. Reverse auction.

(1) The department may enter into an agreement for the purchase of information technology utilizing a reverse auction process. Such process shall result in the purchase of information technology from the vendor submitting the lowest responsible bid amount for the information technology to be acquired. The department, in establishing a reverse auction process shall do all of the following:

(a) Determine the specifications and requirements of the information technology to be acquired.

(b) Identify and provide notice to potential vendors concerning the proposed acquisition.

(c) Establish prequalification requirements to be met by a vendor to be eligible to participate in the reverse auction.

(d) Conduct the reverse auction in a manner as deemed appropriate by the department, and consistent with rules adopted by the department.

(2) Prior to conducting a reverse auction, the department shall establish a threshold amount which shall be the maximum amount which the department is willing to pay for the information technology to be acquired.

(3) The department shall enter into an agreement with a vendor who is the lowest responsible bidder which meets the specifications or description of the information technology to be procured, or the department may reject all bids and begin the process again. In determining the lowest responsible bidder, the department may consider various factors, including, but not limited to, the past performance of the vendor relative to quality of product or service, the past experience of the department in relation to the product or service, the relative quality of products or services, the proposed terms of delivery, and the best interest of the state.

e. Competitive bidding. The department may enter into an agreement for the purchase of information technology in the same manner as provided under section 18.6, with respect to the department of general services.

f. In addition to the competitive bidding procedure provided for under paragraph "e", the information technology department may enter into an agreement for the purchase, disposal, or other disposition of information technology in any other manner provided under chapter 18, in the same manner and subject to the same limitations as the department of general services. The information technology department, by rule, shall provide for such procedures.

5. The department shall adopt rules pursuant to chapter 17A to implement the procurement methods provided for in subsections 2 through 4.

Sec. 10. NEW SECTION. 14B.201 IOWACCESS ADVISORY COUNCIL ESTABLISHED — DUTIES — MEMBERSHIP.

1. ADVISORY COUNCIL ESTABLISHED. An IowAccess advisory council is established within the department for the purpose of creating and providing a service to the citizens of this state that is the gateway for one-stop electronic access to government information and transactions, whether federal, state, or local. Except as provided in this section, IowAccess shall be a state funded service providing access to government information and transactions. The information technology council, in establishing the fees for value-added services, shall consider the reasonable cost of creating and organizing such government information through IowAccess.

This section shall not be construed to impair the right of a person to contract to purchase information or data from the Iowa court information system or any other governmental entity. This section shall not be construed to affect a data purchase agreement or contract in existence on the effective date of this section.

2. DUTIES.

a. The advisory council shall do all of the following:

(1) Recommend to the information technology council rates to be charged for access to and for value-added services performed through IowAccess.

(2) Recommend to the director and the information technology council the priority of projects associated with IowAccess.

(3) Recommend to the director and the information technology council expected outcomes and effects of the use of IowAccess and determine the manner in which such outcomes are to be measured and evaluated.

(4) Review and recommend to the director and the information technology council the IowAccess total budget request and ensure that such request reflects the priorities and goals of IowAccess as established by the advisory council.

(5) Review and recommend to the director and the information technology council all rules to be adopted by the information technology council that are related to IowAccess.

(6) Advocate for access to government information and services through IowAccess and for data privacy protection, information ethics, accuracy, and security in IowAccess programs and services.

(7) Receive status and operations reports associated with IowAccess.

(8) Other duties as assigned by the information technology council or the director.

b. The advisory council shall also advise the information technology council and the director with respect to the operation of IowAccess and encourage and implementing[2] access to government and its public records by the citizens of this state.

c. The advisory council shall serve as a link between the users of public records, the lawful custodians of such public records, and the citizens of this state who are the owners of such public records.

d. The advisory council shall ensure that IowAccess gives priority to serving the needs of the citizens of this state.

3. MEMBERSHIP.

a. The advisory council shall be composed of nineteen members including the following:

(1) Five persons appointed by the governor representing the primary customers of IowAccess.

(2) Six persons representing lawful custodians as follows:

(a) One person representing the legislative branch, who shall not be a legislator, to be appointed jointly by the president of the senate, after consultation with the majority and minority leaders of the senate, and by the speaker of the house of representatives, after consultation with the majority and minority leaders of the house of representatives.

(b) One person representing the judicial branch as designated by the chief justice of the supreme court.

(c) One person representing the executive branch as designated by the governor.

(d) One person to be appointed by the governor representing cities who shall be actively engaged in the administration of a city.

(e) One person to be appointed by the governor representing counties who shall be actively engaged in the administration of a county.

(f) One person to be appointed by the governor representing the federal government.

(3) Four members to be appointed by the governor representing a cross section of the citizens of the state.

(4) Four members of the general assembly, two from the senate and two from the house of representatives, with not more than one member from each chamber being from the same political party. The two senators shall be designated by the president of the senate after consultation with the majority and minority leaders of the senate. The two representatives shall be designated by the speaker of the house of representatives after consultation with the majority and minority leaders of the house of representatives. Legislative members shall serve in an ex officio, nonvoting capacity. A legislative member is eligible for per diem and expenses as provided in section 2.10.

b. Members appointed by the governor are subject to confirmation by the senate and shall serve four-year staggered terms as designated by the governor. The advisory council shall annually elect its own chairperson from among the voting members of the board. Members appointed by the governor are subject to the requirements of sections 69.16, 69.16A, and 69.19. Members appointed by the governor shall be reimbursed for actual and necessary expenses incurred in performance of their duties. Such members may also be eligible to receive compensation as provided in section 7E.6.

Sec. 11. Section 7E.5, subsection 1, Code 1999, is amended by adding the following new paragraph:

NEW PARAGRAPH. x. The information technology department, created in chapter 14B, which has primary responsibility for the development and application of information technology in state government.

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[2] According to enrolled Act

Sec. 12. Section 8D.3, subsection 1, Code Supplement 1999, is amended to read as follows:

1. COMMISSION ESTABLISHED. A telecommunications and technology commission is established with the sole authority to supervise the management, development, and operation of the network and ensure that all components of the network are technically compatible. The management, development, and operation of the network shall not be subject to the jurisdiction or control of any other state agency. However, the commission is subject to the general operations practices and procedures which are generally applicable to other state agencies.

PARAGRAPH DIVIDED. The commission shall ensure that the network operates in an efficient and responsible manner consistent with the provisions of this chapter for the purpose of providing the best economic service attainable to the network users consistent with the state's financial capacity. The commission shall ensure that educational users and the use, design, and implementation for educational applications be given the highest priority concerning use of the network. The commission shall provide for the centralized, coordinated use and control of the network.

Sec. 13. Section 11.5B, Code 1999, is amended by adding the following new subsection:

NEW SUBSECTION. 14. Information technology department.

Sec. 14. Section 304.3, Code 1999, is amended by adding the following new subsection:

NEW SUBSECTION. 9. The director of the information technology department.

Sec. 15. Section 304.7, Code 1999, is amended by adding the following new subsection:

NEW SUBSECTION. 1A. Public records policies for an electronic repository for mandated agency reports.

Sec. 16. NEW SECTION. 304.13A ELECTRONIC RECORDS.

1. An agency required to compile and maintain a report, on and after July 1, 2001, shall maintain such report in an electronic form, giving consideration to the standards for electronic records recommended by the information technology department. Such agency, by itself, or with the assistance of the information technology department, shall also make the report accessible to the public through the internet as provided in subsection 2 and through other electronic means.

2. A copy of all required agency reports shall be located at an internet site maintained by the information technology department in consultation with the state librarian, and all required reports shall be placed on electronic media. The state librarian shall provide for the distribution of such copies to a public library in this state requesting such copy.

For purposes of this section, "public library" means a city library, a regional library as provided in chapter 256, or a county library as provided in chapter 336.

3. It is the intent of the general assembly that this section be interpreted to reduce, to the greatest extent possible, printed copies of agency reports while protecting the public's right to have access to such reports. It is the intent of the general assembly that the distribution of a printed mandatory report be used only when it is the most efficient and cost-effective method for providing public access to such report. It is the intent of the general assembly that agency reports subject to this section be made available, to the greatest extent possible, to the public by electronic means.

4. The commission, in consultation with the information technology department, shall make recommendations to the governor and the general assembly for the continued reduction of printed reports throughout state government in a manner that protects the public's right to access such reports.

Sec. 17. IOWA COMMUNICATIONS NETWORK STATUS. It is the intent of the general assembly that the general assembly, during the 2002 regular session, review the operations of the Iowa communications network and the information technology department for the purpose of determining whether the oversight and administration of the network should be under the authority of the department.

Sec. 18. INITIAL APPOINTMENTS — IOWACCESS ADVISORY COUNCIL. The initial appointments to the IowAccess advisory council pursuant to section 14B.201, subsection 3, paragraph "a", subparagraph (1), as enacted in this Act, shall be as follows:

1. One person to be appointed by the governor representing financial institutions who shall be actively engaged in finance and banking.
2. One person to be appointed by the governor representing insurers who shall be actively engaged in the insurance industry.
3. One person to be appointed by the governor representing the legal profession who shall be actively engaged in the profession of law.
4. One person to be appointed by the governor representing media interests.
5. One person to be appointed by the governor representing real estate brokers and salespersons who shall be actively engaged in the real estate business.

Sec. 19. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved April 25, 2000

CHAPTER 1142

HORIZONTAL PROPERTY REGIMES

S.F. 2426

AN ACT relating to the designation, valuation, and taxation of property in a horizontal property regime and including an effective date.

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

Section 1. Section 499B.3, Code 1999, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. If the declaration is to convert an existing structure, the declarant shall file the declaration of the horizontal property regime with the city in which the regime is located or with the county if not located within a city at least sixty days before being recorded in the office of the county recorder to enable the city or county, as applicable, to establish that the converted structure meets appropriate building code requirements as provided in section 499B.20. However, if the city or county, as applicable, does not have a building code, the declarant shall file the declaration with the state building code commissioner instead of the applicable city or county at least sixty days before the recording of the declaration to enable the commissioner to establish that the converted structure meets the state building code.

Sec. 2. Section 499B.10, Code 1999, is amended to read as follows:

499B.10 INDIVIDUAL APARTMENTS AND INTEREST IN COMMON ELEMENTS ARE ALIENABLE.

When real property containing a building is committed to a horizontal property regime, each individual apartment located ~~therein~~ in the building and the interests in the general common elements and limited common elements if any, appurtenant thereto, shall ~~be vested as,~~ constitute for all purposes a separate parcel of real property and shall be as completely and freely alienable as any separate parcel of real property is or may be under the laws of this state, except as limited by the provisions of this chapter.

Sec. 3. Section 499B.11, subsection 1, Code Supplement 1999, is amended to read as follows:

1. All real property taxes and special assessments shall be assessed and levied on each apartment and its respective appurtenant fractional share or percentage of the land, general common elements and limited common elements where applicable as ~~such~~ these apartments and appurtenances are separately owned, and not on the entire horizontal property regime. The fair market value determined for an apartment includes the value of its appurtenant share or percentage of the land, general common elements, and limited common elements.

Sec. 4. NEW SECTION. 499B.20 CONVERSIONS TO MEET BUILDING CODES.

After the effective date of this Act, an existing structure shall not be converted to a horizontal property regime unless the converted structure meets local city or county, as applicable, building code requirements in effect on the date of conversion or the state building code requirements if the local city or county does not have a building code. For purposes of this section, if the structure is located in a city, the city building code applies and if the structure is located in the unincorporated area of the county, the county building code applies.

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

Approved April 25, 2000

CHAPTER 1143

SCHOOL DISTRICT REORGANIZATION AND SHARING INCENTIVES STUDY

H.F. 2198

AN ACT directing the department of education to conduct a feasibility study of reorganization and sharing incentives for school districts.

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

Section 1. SCHOOL DISTRICT REORGANIZATION AND SHARING INCENTIVES STUDY. The department of education shall study the feasibility of reauthorizing, or initiating new, school district reorganization and sharing incentives. As a component of the study, the department shall invite the Iowa high school athletic association and the Iowa girls high school athletic union to submit for consideration any information or advice for the elimination of sports-related barriers to reorganization. The study shall include, but shall not be limited to, a review of incentives intended to encourage school districts to share administrators or implement other sharing initiatives and a determination of the costs and methods for implementing the incentives identified; shall gather and report data relating to reorganization efforts since 1979, listing the school districts that utilized reorganization or sharing incentives such as whole grade sharing, shared classes or teachers, shared superintendents, and shared mathematics, science, and language courses, the current status of school districts that received reorganization or sharing incentives, the costs of the incentives, the school districts that consolidated, and how incentives were used by the school districts; shall study the feasibility of providing sharing incentives to encourage transportation partnering; shall determine the efficacy and the cost effectiveness of the incentives; shall study the feasibility of providing school infrastructure funding as a reorganization incentive; and shall identify actions that may be taken by the state, the department of education, area education agencies, and stakeholders that have proven in the past to assist

school district reorganization and whole grade sharing efforts. The department shall report its findings, including any recommendations, to the chairpersons and ranking members of the senate and house standing committees on education and of the joint education appropriations subcommittees of the Seventy-eighth General Assembly by January 1, 2001.

Approved April 25, 2000

CHAPTER 1144

AMPHETAMINES AND DRUG PARAPHERNALIA — CRIMINAL PENALTIES

H.F. 2419

AN ACT concerning the criminal penalties relating to amphetamines or drug paraphernalia.

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

Section 1. Section 124.401, subsection 5, unnumbered paragraph 5, Code Supplement 1999, is amended to read as follows:

If the controlled substance is amphetamine, its salts, isomers, or salts of its isomers, or methamphetamine, its salts, isomers, or salts of its isomers, the court shall order the person to serve a term of imprisonment of not less than forty-eight hours. Any sentence imposed may be suspended, and the court shall place the person on probation upon such terms and conditions as the court may impose. The court may place the person on intensive probation. However, the terms and conditions of probation shall require submission to random drug testing. If the person fails a drug test, the court may transfer the person's placement to any appropriate placement permissible under the court order.

Sec. 2. Section 124.401D, Code Supplement 1999, is amended to read as follows:

124.401D CONSPIRACY TO MANUFACTURE FOR DELIVERY OR DELIVERY OR INTENT OR CONSPIRACY TO DELIVER AMPHETAMINE OR METHAMPHETAMINE TO A MINOR.

1. It is unlawful for a person eighteen years of age or older to act with, or enter into a common scheme or design with, or conspire with one or more persons to manufacture for delivery to a person under eighteen years of age a material, compound, mixture, preparation, or substance that contains any detectable amount of amphetamine, its salts, isomers, or salts of its isomers, or methamphetamine, its salts, isomers, or salts of its isomers.

A violation of this subsection is a felony punishable under section 902.9, subsection 1. A second or subsequent violation of this subsection is a class "A" felony.

2. It is unlawful for a person eighteen years of age or older to deliver, or possess with the intent to deliver to a person under eighteen years of age, a material, compound, mixture, preparation, or substance that contains any detectable amount of amphetamine, its salts, isomers, or salts of its isomers, or methamphetamine, its salts, isomers, or salts of its isomers, or to act with, or enter into a common scheme or design with, or conspire with one or more persons to deliver or possess with the intent to deliver to a person under eighteen years of age a material, compound, mixture, preparation, or substance that contains any detectable amount of amphetamine, its salts, isomers, or salts of its isomers, or methamphetamine, its salts, isomers, or salts of its isomers.

A violation of this subsection is a felony punishable under section 902.9, subsection 1. A second or subsequent violation of this subsection is a class "A" felony.

Sec. 3. Section 124.401E, Code Supplement 1999, is amended to read as follows:

124.401E CERTAIN PENALTIES FOR MANUFACTURING OR DELIVERY OF AMPHETAMINE OR METHAMPHETAMINE.

1. If a court sentences a person for the person's first conviction for delivery or possession with intent to deliver a controlled substance under section 124.401, subsection 1, paragraph "c", and if the controlled substance is amphetamine, its salts, isomers, or salts of its isomers, or methamphetamine, its salts, isomers, or salts of its isomers, the court may suspend the sentence, and the court may order the person to complete a drug court program if a drug court has been established in the county in which the person is sentenced or order the person to be assigned to a community-based correctional facility for a period of one year or until maximum benefits are achieved, whichever is earlier.

2. If a court sentences a person for a conviction of manufacturing of a controlled substance under section 124.401, subsection 1, paragraph "c", and if the controlled substance is amphetamine, its salts, isomers, or salts of its isomers, or methamphetamine, its salts, isomers, or salts of its isomers, the court may suspend the sentence, and the court may order the person to complete a drug court program if a drug court has been established in the county in which the person is sentenced, or order the person to be assigned to a community-based correctional facility for a period of one year or until maximum benefits are achieved, whichever is earlier.

3. If a court sentences a person for the person's second or subsequent conviction for delivery or possession with intent to deliver a controlled substance under section 124.401, subsection 1, and the controlled substance is amphetamine, its salts, isomers, or salts of its isomers, or methamphetamine, its salts, isomers, or salts of its isomers, the court, in addition to any other authorized penalties, shall sentence the person to imprisonment in accordance with section 124.401, subsection 1, and the person shall serve the minimum period of confinement as required by section 124.413.

Sec. 4. NEW SECTION. 124.414 DRUG PARAPHERNALIA.

1. a. As used in this section, "drug paraphernalia" means all equipment, products, or materials of any kind used or attempted to be used in combination with a controlled substance, except those items used in combination with the lawful use of a controlled substance, to knowingly or intentionally and primarily do any of the following:

(1) Manufacture a controlled substance.

(2) Inject, ingest, inhale, or otherwise introduce into the human body a controlled substance.

(3) Test the strength, effectiveness, or purity of a controlled substance.

(4) Enhance the effect of a controlled substance.

b. "Drug paraphernalia" does not include hypodermic needles or syringes if manufactured, delivered, sold, or possessed for a lawful purpose.

2. It is unlawful for any person to knowingly or intentionally manufacture, deliver, sell, or possess drug paraphernalia.

3. A person who violates this section commits a simple misdemeanor.

Sec. 5. Section 901.10, subsection 2, Code Supplement 1999, is amended to read as follows:

2. Notwithstanding subsection 1, if the sentence under section 124.413 involves ~~a~~ an amphetamine or methamphetamine offense under section 124.401, subsection 1, paragraph "a" or "b", the court shall not grant any reduction of sentence unless the defendant pleads guilty. If the defendant pleads guilty, the court may, at its discretion, reduce the mandatory minimum sentence by up to one-third. If the defendant additionally cooperates in the prosecution of other persons involved in the sale or use of controlled substances, and if the prosecutor requests an additional reduction in the defendant's sentence because of such cooperation, the court may grant a further reduction in the defendant's mandatory minimum sentence, up to one-half of the remaining mandatory minimum sentence.

Approved April 25, 2000

CHAPTER 1145

JUVENILE COURT JURISDICTION — ADOPTION AND TERMINATION OF PARENTAL RIGHTS

S.F. 421

AN ACT to extend the jurisdiction of the juvenile court to include adoption and termination of parental rights proceedings.

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

Section 1. NEW SECTION. 232.6 JURISDICTION — ADOPTIONS AND TERMINATIONS OF PARENTAL RIGHTS.

The court may exercise jurisdiction over adoption and termination of parental rights proceedings under chapters 600 and 600A.

Sec. 2. Section 600.1, Code 1999, is amended to read as follows:

600.1 CONSTRUCTION.

This chapter shall be construed liberally. The best interest of the person to be adopted shall be the paramount consideration in interpreting this chapter. However, the interests of the adopting parents shall be given due consideration in this interpretation. However, in determining the best interest of the person to be adopted and the interests of the adopting parents, any evidence of interests relating to a period of time during which the person to be adopted is placed with prospective adoptive parents and during which the placement is not in compliance with the law, adoption procedures, or any action by the juvenile court or court, shall not be considered in the determination.

Sec. 3. Section 600.3, Code 1999, is amended to read as follows:

600.3 COMMENCEMENT OF ADOPTION ACTION — JURISDICTION — FORUM NON CONVENIENS.

1. An action for the adoption of any natural person shall be commenced by the filing of an adoption petition, as prescribed in section 600.5, in the juvenile court or court of the county in which an adult person to be adopted is domiciled or resides, or in the juvenile court or court of the county in which the guardian of a minor person to be adopted or the petitioner is domiciled or resides.

2. An adoption petition shall not be filed until a termination of parental rights has been accomplished except in the following cases:

a. No termination of parental rights is required if the person to be adopted is an adult.

b. If the stepparent of the child to be adopted is the adoption petitioner, the parent-child relationship between the child and the parent who is not the spouse of the petitioner may be terminated as part of the adoption proceeding by the filing of that parent's consent to the adoption.

For the purposes of this subsection, a consent to adopt recognized by the juvenile courts or courts of another jurisdiction in the United States and obtained from a resident of that jurisdiction shall be accepted in this state in lieu of a termination of parental rights proceeding.

Any adoption proceeding pending on or completed prior to July 1, 1978, is hereby legalized and validated to the extent that it is consistent with this subsection.

3. If upon filing of the adoption petition or at any later time in the adoption action the juvenile court or court finds that in the interest of substantial justice the adoption action should be conducted in another juvenile court or court, it may transfer, stay, or dismiss the adoption action on any conditions that are just.

Sec. 4. Section 600.4, subsection 3, paragraph c, Code 1999, is amended to read as follows:

c. Is unable to petition with the other spouse because of the prolonged and unexplained absence, unavailability, or incapacity of the other spouse, or because of an unreasonable withholding of joinder by the other spouse, as determined by the juvenile court or court under section 600.5, subsection 7.

Sec. 5. Section 600.5, unnumbered paragraph 1, Code 1999, is amended to read as follows:
An adoption petition shall be signed and verified by the petitioner, shall be filed with the juvenile court or court designated in section 600.3, and shall state:

Sec. 6. Section 600.5, subsection 7, Code 1999, is amended to read as follows:
7. A designation of the particular provision in section 600.4 under which the petitioner is qualified to adopt and, if under section 600.4, subsection 3, paragraph "c", a request that the juvenile court or court approve the petitioner's qualification to adopt.

Sec. 7. Section 600.7, subsection 1, unnumbered paragraph 1, Code 1999, is amended to read as follows:
An adoption petition shall not be granted unless the following persons consent to the adoption or unless the juvenile court or court makes a determination under subsection 4:

Sec. 8. Section 600.7, subsection 2, paragraphs a and b, Code 1999, are amended to read as follows:
a. If by any minor person to be adopted who is fourteen years of age or older, in the presence of the juvenile court or court in which the adoption petition is filed.
b. If by any other person, either in the presence of the juvenile court or court in which the adoption petition is filed or before a notary public.

Sec. 9. Section 600.7, subsections 3 and 4, Code 1999, are amended to read as follows:
3. A consent to the adoption may be withdrawn prior to the issuance of an adoption decree under section 600.13 by the filing of an affidavit of consent withdrawal with the juvenile court or court. Such affidavit shall be treated in the same manner as an attached verified statement is treated under subsection 4.
4. If any person required to consent under this section refuses to or cannot be located to give consent, the petitioner may attach to the petition a verified statement of such refusal or lack of location. The juvenile court or court shall then determine, at the adoption hearing prescribed in section 600.12, whether, in the best interests of the person to be adopted and the petitioner, any particular consent shall be unnecessary to the granting of an adoption petition.

Sec. 10. Section 600.8, subsection 2, paragraph a, Code 1999,[1] is amended to read as follows:
a. A preplacement investigation and report of the investigation shall be completed and the prospective adoption petitioner approved for a placement by the person making the investigation prior to any agency or independent placement of a minor person in the petitioner's home in anticipation of an ensuing adoption. A report of a preplacement investigation that has approved a prospective adoption petitioner for a placement shall not authorize placement of a minor person with that petitioner after one year from the date of the report's issuance. However, if the prospective adoption petitioner is a relative within the fourth degree of consanguinity who has assumed custody of a minor person to be adopted, a preplacement investigation of this petitioner and a report of the investigation may be completed at a time established by the juvenile court or court or may be waived as provided in subsection 12.

Sec. 11. Section 600.8, subsections 4, 7, 8, 9, and 12, Code 1999, are amended to read as follows:
4. A postplacement investigation and a background information investigation and the reports of these investigations shall be completed and the reports filed with the juvenile court or court prior to the holding of the adoption hearing prescribed in section 600.12. Upon the filing of an adoption petition pursuant to section 600.5, the juvenile court or court shall immediately appoint the department, an agency, or an investigator to conduct and complete the postplacement and background information investigations and reports. In addition to filing the background information report with the juvenile court or court prior to the holding of the adoption hearing, the department, agency, or investigator appointed to

[1] See Code Supplement 1999 for amendments to this section by 1999 Iowa Acts, chapter 138, §1, 2

conduct the background information investigation shall complete the background information investigation and report and furnish a copy to the adoption petitioner within thirty days after the filing of the adoption petition. Any person~~, including a juvenile court,~~ who has gained relevant background information concerning a minor person subject to an adoption petition shall, upon request, fully co-operate with the conducting of the background information investigation and report by disclosing any relevant background information, whether contained in sealed records or not.

7. Any investigation or report required under this section shall not apply when the person to be adopted is an adult or when the prospective adoption petitioner or adoption petitioner is a stepparent of the person to be adopted. However, in the case of a stepparent adoption, the juvenile court or court, upon the request of an interested person or on its own motion stating the reasons therefor of record, may order an investigation or report pursuant to this section.

8. Any person designated to make an investigation and report under this section may request an agency or state agency, within or outside this state, to conduct a portion of the investigation or the report, as may be appropriate, and to file a supplemental report of such investigation or report with the juvenile court or court. In the case of the adoption of a minor person by a person domiciled or residing in any other jurisdiction of the United States, any investigation or report required under this section which has been conducted pursuant to the standards of that other jurisdiction shall be recognized in this state.

9. The department may investigate, on its own initiative or on order of the juvenile court or court, any placement made or adoption petition filed under this chapter or chapter 600A and may report its resulting recommendation to the juvenile court or court.

12. Any investigation and report required under subsection 1 of this section may be waived by the juvenile court or court if the adoption petitioner is related within the fourth degree of consanguinity to the person to be adopted.

Sec. 12. Section 600.9, subsection 2, unnumbered paragraph 1, Code 1999, is amended to read as follows:

An adoption petitioner of a minor person shall file with the juvenile court or court, prior to the adoption hearing, a full accounting of all disbursements of any thing of value paid or agreed to be paid by or on behalf of the petitioner in connection with the petitioned adoption. This accounting shall be made by a report prescribed by the juvenile court or court and shall be signed and verified by the petitioner. Only expenses incurred in connection with the following and any other expenses approved by the juvenile court or court are allowable:

Sec. 13. Section 600.10, Code 1999, is amended to read as follows:

600.10 MINIMUM RESIDENCE OF A MINOR CHILD.

The adoption of a minor person shall not be decreed until that person has lived with the adoption petitioner for a minimum residence period of one hundred eighty days. However, the juvenile court or court may waive this period if the adoption petitioner is a stepparent or related to the minor person within the fourth degree of consanguinity or may shorten this period upon good cause shown when the juvenile court or court is satisfied that the adoption petitioner and the person to be adopted are suited to each other.

Sec. 14. Section 600.11, subsections 1 and 3, Code 1999, are amended to read as follows:

1. The juvenile court or court shall set the time and place of the adoption hearing prescribed in section 600.12 upon application of the petitioner. The juvenile court or court may continue the adoption hearing if the notice prescribed in subsections 2 and 3 is given, except that such notice shall only be given at least ten days prior to the date which has been set for the continuation of the adoption hearing.

3. A notice of the adoption hearing shall state the time, place, and purpose of the hearing and shall be served in accordance with rule of civil procedure 56.1. Proof of the giving of notice shall be filed with the juvenile court or court prior to the adoption hearing. Acceptance of service by the party being given notice shall satisfy the requirements of this subsection.

Sec. 15. Section 600.12, subsections 2 and 3, Code 1999, are amended to read as follows:

2. Only those persons notified under section 600.11 and their witnesses and legal counsel or persons requested by the juvenile court or court to be present shall be admitted to the court chambers while an adoption hearing is being conducted. The adoption petitioner and the person to be adopted shall be present at the hearing, unless the presence of either is excused by the juvenile court or court.

3. Any person admitted to the hearing shall be heard and allowed to present evidence upon request and according to the manner in which the juvenile court or court conducts the hearing.

Sec. 16. Section 600.12A, subsections 1 and 2, Code 1999, are amended to read as follows:

1. If the person to be adopted dies following the filing of an adoption petition pursuant to section 600.3, but prior to issuance of a final adoption decree pursuant to section 600.13, the juvenile court or court may waive any investigations and reports required pursuant to section 600.8 that remain uncompleted, waive the minimum residence requirements pursuant to section 600.10, proceed to the adoption hearing, and issue a final adoption decree, unless any person to whom notice is to be provided pursuant to section 600.11 objects to the adoption.

2. If the person to be adopted dies following termination of the parental rights of the person's biological parents but prior to the filing of an adoption petition, the person who was the guardian or custodian of the person to be adopted prior to the person's death or the person who was in a parent-child relationship with the person to be adopted prior to the person's death may file an adoption petition and the juvenile court or court in the interest of justice may waive any other procedures or requirements related to the adoption, proceed to the adoption hearing, and issue a final adoption decree, unless any person to whom notice is to be provided pursuant to section 600.11 objects to the adoption.

Sec. 17. Section 600.13, subsections 1, 2, 3, 5, and 6, Code 1999,[2] are amended to read as follows:

1. At the conclusion of the adoption hearing, the juvenile court or court shall:

a. Issue a final adoption decree;

b. Issue an interlocutory adoption decree; or,

c. Dismiss the adoption petition if the requirements of this Act[3] have not been met or if dismissal of the adoption petition is in the best interest of the person whose adoption has been petitioned. Upon dismissal, the juvenile court or court shall determine who is to be guardian or custodian of a minor child, including the adoption petitioner if it is in the best interest of the minor person whose adoption has been petitioned.

2. An interlocutory adoption decree automatically becomes a final adoption decree at a date specified by the juvenile court or court in the interlocutory adoption decree, which date shall not be less than one hundred eighty days nor more than three hundred sixty days from the date the interlocutory decree is issued. However, an interlocutory adoption decree may be vacated prior to the date specified for it to become final. Also, the juvenile court or court may provide in the interlocutory adoption decree for further observation, investigation, and report of the conditions of and the relationships between the adoption petitioner and the person petitioned to be adopted.

3. If an interlocutory adoption decree is vacated under subsection 2, it shall be void from the date of issuance and the rights, duties, and liabilities of all persons affected by it shall, unless they have become vested, be governed accordingly. Upon vacation of an interlocutory adoption decree, the juvenile court or court shall proceed under the provisions of subsection 1, paragraph "c".

5. An interlocutory or a final adoption decree shall be entered with the clerk of ~~the~~ court. Such decree shall set forth any facts of the adoption petition which have been proven to the satisfaction of the juvenile court or court and any other facts considered to be relevant by the juvenile court or court and shall grant the adoption petition. If so designated in the adoption decree, the name of the adopted person shall be changed by issuance of that decree. The

[2] See Code Supplement 1999 for an amendment to this section that struck subsection 6 by 1999 Iowa Acts, chapter 43, §2

[3] See chapter 1232, §83 herein

clerk of the court shall, within thirty days of issuance, deliver one certified copy of any adoption decree to the petitioner, one copy of any adoption decree to the department and any agency or person making an independent placement who placed a minor person for adoption, and one certification of adoption as prescribed in section 144.19 to the state registrar of vital statistics. Upon receipt of the certification, the state registrar shall prepare a new birth certificate pursuant to section 144.23 and deliver to the parents named in the decree and any adult person adopted by the decree a copy of the new birth certificate. The parents shall pay the fee prescribed in section 144.46. If the person adopted was born outside the state, the state registrar shall forward the certification of adoption to the appropriate agency in the state or foreign nation of birth. A copy of any interlocutory adoption decree vacation shall be delivered and another birth certificate shall be prepared in the same manner as a certification of adoption is delivered and the birth certificate was originally prepared.

6.[4] The clerk of ~~the district~~ court shall attach to the certified copy of the decree delivered to the department, a copy of the adoption information form required to be attached to the adoption petition under section 600.6, subsection 5.

Sec. 18. Section 600.15, subsection 1, paragraphs a and b, Code 1999, are amended to read as follows:

a. A decree establishing a parent-child relationship by adoption which is issued pursuant to due process of law by a juvenile court or court of any other jurisdiction in the United States shall be recognized in this state.

b. A decree terminating a parent-child relationship which is issued pursuant to due process of law by a juvenile court or court of any other jurisdiction in the United States shall be recognized in this state.

Sec. 19. Section 600.16A, subsection 2, paragraphs b and c, Code 1999, are amended to read as follows:

b. The juvenile court or court, for good cause, shall order the opening of the permanent adoption record of the juvenile court or court for the adopted person who is an adult and reveal the names of either or both of the biological parents following consideration of both of the following:

(1) A biological parent may file an affidavit requesting that the juvenile court or court reveal or not reveal the parent's identity. The juvenile court or court shall consider any such affidavit in determining whether there is good cause to order opening of the records. To facilitate the biological parents in filing an affidavit, the department shall, upon request of a biological parent, provide the biological parent with an adoption information packet containing an affidavit for completion and filing with the juvenile court or court.

(2) If the adopted person who applies for revelation of the biological parents' identity has a sibling who is a minor and who has been adopted by the same parents, the juvenile court or court may deny the application on the grounds that revelation to the applicant may also indirectly and harmfully permit the same revelation to the applicant's minor sibling.

c. A biological sibling of an adopted person may file or may request that the department file an affidavit in the juvenile court or court in which the adopted person's adoption records have been sealed requesting that the juvenile court or court reveal or not reveal the sibling's name to the adopted person. The juvenile court or court shall consider any such affidavit in determining whether there is good cause to order opening of the records upon application for revelation by the adopted person. However, the name of the biological sibling shall not be revealed until the biological sibling has attained majority.

Sec. 20. Section 600.16A, subsection 3, paragraph b, unnumbered paragraph 3, Code 1999, is amended to read as follows:

Notwithstanding the provisions of this subsection, if the adult adopted person has a sibling who is a minor and who has also been adopted by the same parents, the department,

[4] See Code Supplement 1999 for an amendment to this section that struck subsection 6 by 1999 Iowa Acts, chapter 43, §2

the clerk of court, or the agency which made the placement may deny the request of either the adult adopted person or the biological parent to open the adoption records and to reveal the identities of the parties pending determination by the juvenile court or court that there is good cause to open the records pursuant to subsection 2.

Sec. 21. Section 600.16A, subsection 4, Code 1999, is amended to read as follows:

4. An adopted person whose adoption became final prior to July 4, 1941, and whose adoption record was not required to be sealed at the time when the adoption record was completed, shall not be required to show good cause for an order opening the adoption record under this subsection, provided that the juvenile court or court shall consider any affidavit filed under this subsection.

Sec. 22. Section 600.18, unnumbered paragraph 1, Code 1999, is amended to read as follows:

Any prospective adoptive parent desiring financial assistance shall state this fact in the petition for adoption. The department of human services shall investigate the person petitioning for adoption and the child and shall file with the juvenile court or court a statement of whether the department will provide assistance as provided in sections 600.17 to 600.22, the estimated amount, extent, and duration of assistance, and any other information the juvenile court or court may order.

Sec. 23. Section 602.8102, subsections 42 and 43, Code 1999, are amended to read as follows:

42. Serve as clerk of the juvenile court and carry out duties as provided in chapter 232 and article 7 of this chapter.

43. Submit to the director of the division of child and family services of the department of human services a duplicate of the findings of the ~~district~~ court related to adoptions as provided in section 235.3, subsection 7.

Approved April 26, 2000

CHAPTER 1146

INTERNAL REVENUE CODE REFERENCES AND INCOME TAX PROVISIONS

S.F. 2424

AN ACT updating the Iowa Code references to the Internal Revenue Code, amending the earned income credit, amending requirements for nonresident taxpayers, providing tax benefits to military personnel in hazardous duty areas, and providing effective and retroactive applicability dates.

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

Section 1. Section 15.335, unnumbered paragraph 1, Code Supplement 1999, is amended to read as follows:

An eligible business may claim a corporate tax credit for increasing research activities in this state during the period the eligible business is participating in the program. The credit equals six and one-half percent of the state's apportioned share of the qualifying expenditures for increasing research activities. The state's apportioned share of the qualifying

expenditures for increasing research activities is a percent equal to the ratio of qualified research expenditures in this state to total qualified research expenditures. The credit allowed in this section is in addition to the credit authorized in section 422.33, subsection 5. If the eligible business is a partnership, subchapter S corporation, limited liability company, or estate or trust electing to have the income taxed directly to the individual, an individual may claim the tax credit allowed. The amount claimed by the individual shall be based upon the pro rata share of the individual's earnings of the partnership, subchapter S corporation, limited liability company, or estate or trust. For purposes of this section, "qualifying expenditures for increasing research activities" means the qualifying expenditures as defined for the federal credit for increasing research activities which would be allowable under section 41 of the Internal Revenue Code in effect on January 1, ~~1999~~ 2000.

Sec. 2. Section 15A.9, subsection 8, unnumbered paragraph 2, Code Supplement 1999, is amended to read as follows:

For the purposes of this section, "qualifying expenditures for increasing research activities" means the qualifying expenditures as defined for the federal credit for increasing research activities which would be allowable under section 41 of the Internal Revenue Code in effect on January 1, ~~1999~~ 2000. The credit authorized in this subsection is in lieu of the credit authorized in section 422.33, subsection 5.

Sec. 3. Section 422.3, subsection 4, Code Supplement 1999, is amended to read as follows:

4. "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, ~~1999~~ 2000, whichever is applicable.

Sec. 4. Section 422.10, unnumbered paragraph 1, Code Supplement 1999, is amended to read as follows:

The taxes imposed under this division shall be reduced by a state tax credit for increasing research activities in this state. For individuals, the credit equals six and one-half percent of the state's apportioned share of the qualifying expenditures for increasing research activities. The state's apportioned share of the qualifying expenditures for increasing research activities is a percent equal to the ratio of qualified research expenditures in this state to total qualified research expenditures. For purposes of this section, an individual may claim a research credit for qualifying research expenditures incurred by a partnership, subchapter S corporation, estate, or trust electing to have the income taxed directly to the individual. The amount claimed by the individual shall be based upon the pro rata share of the individual's earnings of a partnership, subchapter S corporation, estate, or trust. For purposes of this section, "qualifying expenditures for increasing research activities" means the qualifying expenditures as defined for the federal credit for increasing research activities which would be allowable under section 41 of the Internal Revenue Code in effect on January 1, ~~1999~~ 2000.

Sec. 5. Section 422.12B, subsection 1, Code 1999, 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 percent of the federal ~~basic~~ earned income credit ~~and the health insurance credit~~ provided in section 32 of the Internal Revenue Code. Any credit in excess of the tax liability is nonrefundable.

Sec. 6. Section 422.13, subsection 1, paragraph c, Code Supplement 1999, is amended to read as follows:

c. However, if that part of the net income of a nonresident which is allocated to Iowa pursuant to section 422.8, subsection 2, is less than one thousand dollars the nonresident is not required to make and sign a return except when the nonresident is subject to the state alternative minimum tax imposed pursuant to section 422.5, subsection 1, paragraph "k".

Sec. 7. Section 422.21, unnumbered paragraph 2, Code Supplement 1999, is amended to read as follows:

An individual in the armed forces of the United States serving in an area designated by the president of the United States or the United States Congress as a combat zone or as a qualified hazardous duty area, or an individual serving in support of those forces, is allowed the same additional time period after leaving the combat zone or the qualified hazardous duty area, or after a period of continuous hospitalization, to file a state income tax return or perform other acts related to the department, as would constitute timely filing of the return or timely performance of other acts described in section 7508(a) of the Internal Revenue Code. For the purposes of this paragraph, "other acts related to the department" includes filing claims for refund for any tax administered by the department, making tax payments other than withholding payments, filing appeals on the tax matters, filing other tax returns, and performing other acts described in the department's rules. The additional time period allowed applies to the spouse of the individual described in this paragraph to the extent the spouse files jointly or separately on the combined return form with the individual or when the spouse is a party with the individual to any matter for which the additional time period is allowed. ~~For the purposes of this paragraph, the Internal Revenue Code shall be interpreted to include the provisions of Pub. L. No. 102-2.~~

Sec. 8. Section 422.33, subsection 5, unnumbered paragraph 1, Code Supplement 1999, is amended to read as follows:

The taxes imposed under this division shall be reduced by a state tax credit for increasing research activities in this state equal to six and one-half percent of the state's apportioned share of the qualifying expenditures for increasing research activities. The state's apportioned share of the qualifying expenditures for increasing research activities is a percent equal to the ratio of qualified research expenditures in this state to the total qualified research expenditures. For purposes of this subsection, "qualifying expenditures for increasing research activities" means the qualifying expenditures as defined for the federal credit for increasing research activities which would be allowable under section 41 of the Internal Revenue Code in effect on January 1, ~~1999~~ 2000.

Sec. 9. RETROACTIVE APPLICABILITY. Sections 1 through 5, 7, and 8 of this Act apply retroactively to January 1, 1999, for tax years beginning on or after that date.

Sec. 10. RETROACTIVE APPLICABILITY. Section 6 of this Act applies retroactively to January 1, 2000, for tax years beginning on or after that date.

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

Approved April 26, 2000

CHAPTER 1147

ENTITIES AND SUBJECTS REGULATED BY DIVISION OF INSURANCE

H.F. 2317

AN ACT relating to entities and subject matter under the regulatory authority of the insurance division, including motor vehicle service contracts, securities, business opportunities, residential service contracts, retirement care contracts, transfer on death probate provisions, viatical settlement contracts; and establishing penalties and making penalties applicable.

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

DIVISION I
MOTOR VEHICLE SERVICE CONTRACTS

Section 1. Section 321I.1, subsection 1, Code 1999, is amended to read as follows:

1. "Commissioner" means the commissioner of insurance as provided in section 505.1 or the deputy administrator appointed under section 502.601.

Sec. 2. Section 321I.1, Code 1999, is amended by adding the following new subsection:

NEW SUBSECTION. 6A. "Record" means information stored or preserved in any medium, including in an electronic or paper format. A record includes but is not limited to documents, books, publications, accounts, correspondence, memoranda, agreements, computer files, film, microfilm, photographs, and audio or visual tapes.

Sec. 3. Section 321I.2, subsection 2, Code 1999, is amended to read as follows:.

2. The issuer of a reimbursement insurance policy shall not cancel a reimbursement insurance policy unless a written notice has been received by the ~~insurance division~~ commissioner and by each applicable provider, including automobile dealers and third-party administrators~~, which~~. The notice shall fix the date of cancellation at a date no earlier than ten days after receipt of the notice by the ~~insurance division~~ commissioner and by the applicable provider. The notice may be made in person or by mail and a post office department receipt of certified or registered mailing shall be deemed proof of receipt of the notice.

Sec. 4. Section 321I.3, subsection 2, Code 1999, is amended to read as follows:

2. In addition to any other required filings, ~~a true and correct~~ an accurate copy of the service contract and the provider's reimbursement insurance policy, the consent to service of process on the commissioner, and such other information as the commissioner requires, shall be filed annually with the commissioner no later than the first day of August. If the first day of August falls on a weekend or a holiday, the date for filing shall be the next business day. In addition to the annual filing, the provider shall promptly file copies of any amended documents if material amendments have been made in the materials on file with the ~~division~~ commissioner. If an annual filing is made after the first of August and sales have occurred during the period when the provider was in noncompliance with this section, the ~~division~~ commissioner shall assess an additional filing fee that is two times the amount normally required for an annual filing. A fee shall not be charged for interim filings made to keep the materials filed with the division current and accurate. The annual filing shall be accompanied by a filing fee determined by the commissioner which shall be sufficient to defray the costs of administering this chapter.

Sec. 5. Section 321I.3, Code 1999, is amended by adding the following new subsection:

NEW SUBSECTION. 3. a. A motor vehicle service contract provider shall promptly file the following information with the insurance commissioner:

(1) A change in the name or ownership of the provider.

(2) The termination of the provider's business.

b. The provider is not required to submit a fee as part of this filing.

Sec. 6. Section 321I.10, Code 1999, is amended to read as follows:

321I.10 MISREPRESENTATIONS OF STATE APPROVAL.

~~It is unlawful for a~~ A motor vehicle service contract provider ~~to~~ shall not represent or imply in any manner that the provider has been sponsored, recommended, or approved or that the provider's abilities or qualifications have in any respect been passed upon by the ~~securities bureau, the insurance division, or the~~ state of Iowa, including the commissioner, the insurance division, or the division's securities bureau.

Sec. 7. Section 321I.11, Code 1999, is amended by adding the following new subsection:

NEW SUBSECTION. 5A. A motor vehicle service contract provider shall not repair a motor vehicle covered by a motor vehicle service contract with any of the following:

a. Used parts, unless the provider receives prior written authorization by the vehicle owner.

b. Rebuilt parts, unless the parts are rebuilt according to national standards recognized by the insurance division.

Sec. 8. Section 321I.12, subsection 1, unnumbered paragraph 1, Code 1999, is amended to read as follows:

A motor vehicle service contract provider shall keep accurate ~~accounts, books, and~~ records concerning transactions regulated under this chapter.

Sec. 9. Section 321I.12, subsection 1, paragraph a, unnumbered paragraph 1, Code 1999, is amended to read as follows:

A motor vehicle service contract provider's ~~accounts, books, and~~ records shall include all of the following:

Sec. 10. Section 321I.12, subsection 1, paragraphs b and c, Code 1999, are amended to read as follows:

b. A motor vehicle service contract provider shall retain all required ~~accounts, books, and~~ records pertaining to a service contract holder for at least two years after the specified period of coverage has expired. A provider discontinuing business in this state shall maintain its records until the provider furnishes the commissioner satisfactory proof that the provider has discharged all obligations to contract holders in this state.

c. Motor vehicle service contract providers shall make all ~~accounts, books, and~~ records concerning transactions regulated under the chapter available to the commissioner for the purpose of examination.

Sec. 11. Section 321I.14, subsections 1, 2, and 4, Code 1999, are amended to read as follows:

1. The ~~administrator of this chapter~~ commissioner may take actions which are necessary or appropriate for the protection of service contract holders or ~~to administer~~ for the effective administration of this chapter. The ~~administrator~~ commissioner may make private and public investigations and examinations as the ~~administrator~~ commissioner deems necessary to determine whether any person has violated or is about to violate this chapter or a rule or order adopted or issued pursuant to this chapter.

2. ~~For the purpose of~~ In an investigation or proceeding under this chapter, the ~~administrator~~ commissioner or any officer designated by the ~~administrator~~ commissioner may administer oaths and affirmations, subpoena witnesses and compel their attendance, take evidence, and require the production of ~~books, papers, correspondence, memoranda, agreements, or other documents or~~ records which the ~~administrator~~ commissioner deems relevant or material to an inquiry, all of which may be enforced in accordance with chapter 17A.

4. ~~If an investigation provides reasonable evidence~~ Upon the commissioner's determination that a ~~person violated~~ provider has engaged, is engaging, or is about to engage in any act or practice constituting a violation of this chapter or a rule adopted pursuant to this chapter, the commissioner may issue ~~an~~ a summary order ~~directed at~~ directing the person to cease and desist from engaging in the act or practice resulting in the violation or to take other affirmative action as in the judgment of the commissioner is necessary to comply with the requirements of this chapter.

a. If a hearing is not timely requested, the summary order becomes final by operation of law. The order shall remain effective from the date of issuance until the date the order becomes final by operation of law or is overturned by a presiding officer or court following a request for hearing. A person who has been issued a summary order under this subsection 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. However, the person shall have at least thirty days from the date that the order is issued in order to file the request. Section 17A.18A is inapplicable to a summary order issued under this subsection.

b. A person violating a summary order issued under this subsection shall be deemed in contempt of that order. The commissioner may petition the district court to enforce the order as certified by the commissioner. The district court shall adjudge the person in contempt of the order if the court finds after hearing that the person is not in compliance with the order. The court shall assess a civil penalty against the person in an amount not less than three thousand dollars but not greater than ten thousand dollars per violation, and may issue further orders as it deems appropriate.

Sec. 12. Section 321I.15, Code 1999, is amended to read as follows:

321I.15 AUDITS.

The commissioner may examine or cause to be examined the ~~books, papers,~~ records~~, memoranda, or documents~~ of a motor vehicle service contract provider for the purpose of verifying compliance with this chapter. The commissioner may require, by a subpoena, the attendance of the provider, or the provider's representative, and any other witness whom the commissioner deems necessary or expedient, and the production of ~~books, papers,~~ records~~, memoranda, or documents~~ relating in any manner to compliance with this chapter if a provider or witness fails or refuses to produce the documents for examination when requested by the commissioner.

Sec. 13. Section 321I.16, Code 1999, is amended to read as follows:

321I.16 VIOLATIONS — PENALTIES.

1. a. Except as provided in paragraph "b", all of the following shall apply:

(1) A violation of this chapter or a rule adopted pursuant to this chapter is a violation of section 714.16, subsection 2, paragraph "a". The remedies and penalties provided by section 714.16, including but not limited to injunctive relief and civil penalties, apply to violations of this chapter.

(2) A person who willfully and knowingly violates this chapter or a rule adopted pursuant to this chapter is, upon conviction, guilty of a class "D" felony.

b. A motor vehicle service contract provider who fails to file documents and information with the commissioner as required pursuant to section 321I.3 may be subject to a civil penalty. The amount of the civil penalty shall not be more than four hundred dollars plus two dollars for each motor vehicle service contract that the person executed prior to satisfying the filing requirement. However, a person who fails to file information regarding a change in the provider's name or the termination of the provider's business as required pursuant to section 321I.3 is subject to a civil penalty of not more than five hundred dollars.

2. If the commissioner believes that grounds exist for the criminal prosecution of ~~persons subject to this chapter~~ a motor vehicle service contract provider for ~~violations of~~ violating this chapter or any other law of this state, the commissioner may forward to the attorney general or the county attorney the grounds for the belief, including all evidence in the commissioner's possession~~, in order that the attorney general or the county attorney may proceed with the matter as~~ for action deemed appropriate by the attorney general or county attorney. At the request of the attorney general, the county attorney shall appear and prosecute the action when brought in the county served by the county attorney.

~~3. A person who willfully and knowingly violates this chapter or a rule adopted pursuant to this chapter is, upon conviction, guilty of a class "D" felony.~~

Sec. 14. Section 321I.9, Code 1999, is repealed.

Sec. 15. DIRECTIONS TO THE CODE EDITOR. The Code editor is directed to transfer chapter 321I to or near chapter 523J, and correct internal references as necessary.

DIVISION II
IOWA UNIFORM SECURITIES ACT

Sec. 16. Section 502.304, subsection 1, unnumbered paragraph 1, Code Supplement 1999, is amended to read as follows:

The administrator may by order deny, suspend, or revoke a registration or may censure, impose a civil penalty upon, or bar an applicant, registrant, branch manager, assistant branch manager, supervisor, or any officer, director, partner, or person occupying a similar status or performing similar functions for a registrant. A person barred under this subsection may be prohibited by the administrator from employment with a registered broker-dealer or investment adviser. The administrator may restrict the person barred from engaging in any activity for which registration is required. Any action by the administrator under this subsection may be taken if the order is found to be in the public interest and it is found that the applicant or registrant or, in the case of a broker-dealer or investment adviser, a partner, an officer, or a director, a person occupying a similar status or performing similar functions, or a person directly or indirectly controlling the broker-dealer or investment adviser, or a branch manager, assistant branch manager, or supervisor:

Sec. 17. Section 502.604, subsection 1, Code Supplement 1999, is amended to read as follows:

1. Issue ~~an~~ a summary order directed at the person requiring the person to cease and desist from engaging in such act or practice or to take other affirmative action as in the judgment of the administrator is necessary to comply with the requirements of this chapter.

a. If a hearing is not timely requested, the summary order becomes final by operation of law. The order shall remain effective from the date of issuance until the date the order becomes final by operation of law or is overturned by a presiding officer or court following a request for hearing. A person who has been issued a summary order under this subsection 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 administrator. However, the person shall have at least thirty days from the date that the order is issued in order to file the request. Section 17A.18A is inapplicable to a summary order issued under this subsection.

b. A person violating a summary order issued under this subsection shall be deemed in contempt of that order. The administrator may petition the district court to enforce the order as certified by the administrator. The district court shall adjudge the person in contempt of the order, if the court finds after hearing that the person is not in compliance with the order. The court shall assess a civil penalty against the person in an amount not less than three thousand dollars but not greater than ten thousand dollars per violation, and may issue further orders as it deems appropriate.

Sec. 18. Section 502.605, subsection 1, Code 1999, is amended to read as follows:

1. a. ~~Any~~ Except as provided in paragraph "b", a person who willfully and knowingly violates any provision of this chapter, or any rule or order under this chapter, ~~shall be~~ is guilty of a class "D" felony.

b. A person who willfully and knowingly violates section 502.401, 502.402, or 502.403, or section 502.408, subsection 1 or 2, resulting in a loss of more than ten thousand dollars is guilty of a class "C" felony.

Sec. 19. Section 502.609, subsection 1, unnumbered paragraph 1, Code 1999, is amended to read as follows:

Every applicant for registration under this chapter, and every issuer which proposes to offer a security in this state, unless exempt under section 502.202 or 502.203 and the administrator by rule or order waives the filing, shall file with the administrator, in such form as the administrator by rule prescribes, an irrevocable consent appointing the administrator or the administrator's successor in office to be such person's attorney to receive service of any lawful process in any noncriminal suit, action or proceeding against such person or the successor, executor or administrator of such person which arises under this chapter or any rule or order hereunder after the consent has been filed, with the same validity as if served personally on the person filing the consent. The consent need not be filed by a person who has filed a consent in connection with a previous registration or notice filing which is then in effect. Service may be made by leaving a copy of the process in the office of the administrator, but it is not effective unless the plaintiff, including the administrator when acting as such~~,~~ does the following:

DIVISION III
BUSINESS OPPORTUNITY PROMOTIONS

Sec. 20. Section 523B.1, Code Supplement 1999, is amended by adding the following new subsection:

NEW SUBSECTION. 10A. "Record" means the same as defined in section 321I.1.

Sec. 21. Section 523B.2, subsection 2, paragraph b, subparagraph (2), Code Supplement 1999, is amended to read as follows:

(2) A disclosure document prepared pursuant to the federal trade commission rule ~~entitled "Disclosure~~ relating to disclosure requirements and prohibitions concerning franchising and business opportunity ventures"~~,~~ as adopted by rule of the administrator in accordance with 16 C.F.R. § 436 ~~(1979)~~. ~~The administrator may by rule adopt any amendment to the disclosure document prepared pursuant to 16 C.F.R. § 436 (1979) that has been adopted by the federal trade commission.~~

Sec. 22. Section 523B.2, subsection 2, Code Supplement 1999, is amended by adding the following new paragraph:

NEW PARAGRAPH. c. The seller shall disclose to the administrator in the disclosure document or otherwise any sales or offers made in this state prior to registration.

Sec. 23. Section 523B.2, subsection 4, Code Supplement 1999, is amended to read as follows:

4. EFFECTIVE DATE. A registration automatically becomes effective upon the expiration of the ~~fifteenth~~ thirtieth full business day after the complete filing is received by the administrator, provided that ~~no~~ an order has not been issued or a proceeding is not pending under subsection 10. The administrator may by order waive or reduce the time period prior to effectiveness, provided that a complete filing has been made. The administrator may by order defer the effective date until the expiration of the ~~fifteenth~~ thirtieth full business day after the filing of an amendment with the administrator.

Sec. 24. Section 523B.2, subsection 9, paragraph c, Code Supplement 1999, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (8) The rights and responsibilities of the parties regarding the marketing of a business opportunity, including but not limited to all of the following:

(a) Whether the seller assigns the purchaser a territory in which to sell a business opportunity.

(b) Whether the seller assists the purchaser in finding locations in which to sell a business opportunity.

(c) Whether the purchaser is solely responsible for marketing a business opportunity.

Sec. 25. Section 523B.8, subsection 1, Code 1999, is amended to read as follows:

1. a. ~~If it appears to the administrator~~ Upon the administrator's determination that a person has engaged, is engaging, or is about to engage in any act or practice constituting a violation of this chapter or a rule or order adopted or issued under this chapter, the administrator may issue ~~an~~ a summary order ~~directed at~~ directing the person ~~requiring the person~~ to cease and desist from engaging in the act or practice or to take other affirmative action as in the judgment of the administrator is necessary to comply with the requirements of this chapter.

b. ~~The~~ If a hearing is not timely requested, the summary order becomes final by operation of law. The order shall remain effective from the date of issuance until the date the order becomes final by operation of law or is overturned by a presiding officer or court following a request for hearing. A person ~~named in the order may, within fourteen days of the date of the order, file a written~~ who has been issued a summary order under this subsection may contest it by filing a request for a ~~hearing. The hearing shall be held in accordance with~~ contested case proceeding as provided in chapter 17A and in accordance with the rules adopted by the administrator. However, the person shall have at least thirty days from the date that the order is issued in order to file the request. Section 17A.18A is inapplicable to a summary order issued under this subsection.

c. A person violating a summary order issued under this subsection shall be deemed in contempt of that order. The administrator may petition the district court to enforce the order as certified by the administrator. The district court shall adjudge the person in contempt of the order if the court finds after hearing that the person is not in compliance with the order. The court shall assess a civil penalty against the person in an amount not less than three thousand dollars but not greater than ten thousand dollars per violation, and may issue further orders as it deems appropriate.

~~Any~~ A consent agreement between the administrator and the seller may be filed in the miscellaneous docket of the clerk of the district court.

Sec. 26. Section 523B.8, subsection 2, paragraph b, Code 1999, is amended to read as follows:

b. For the purpose of an investigation or proceeding under this chapter, the administrator or an officer designated by the administrator may administer oaths and affirmations, subpoena witnesses, compel the attendance of witnesses, take evidence and require the production of ~~books, papers, correspondence, memoranda, agreements, or other documents or~~ records which the administrator deems relevant or material to the inquiry.

DIVISION IV
RESIDENTIAL SERVICE CONTRACTS

Sec. 27. Section 22.7, Code Supplement 1999, is amended by adding the following new subsection:

NEW SUBSECTION. 39. Information obtained by the commissioner of insurance in the course of an investigation as provided in section 502.603, 523B.8, or 523C.23.

Sec. 28. Section 523C.1, Code 1999, is amended by adding the following new subsection:

NEW SUBSECTION. 6A. "Record" means the same as defined in section 321I.1.

Sec. 29. Section 523C.7, subsection 4, Code 1999, is amended to read as follows:

4. To the extent necessary to administer the provisions of this chapter, the commissioner may, after notice and hearing, institute a residential service contract form approval or form review fee ~~as the commissioner shall by~~. If the commissioner establishes a fee, the amount of the fee shall be set by rule ~~set~~ adopted pursuant to chapter 17A. The fee~~, if imposed,~~ may be by dollar amount or based upon a percentage of the sale value of the contract. However, the fee shall not exceed fifty thousand dollars.

Sec. 30. Section 523C.19, Code 1999, is amended to read as follows:

523C.19 CEASE AND DESIST ORDERS.

1. ~~If an investigation provides reasonable evidence~~ Upon the commissioner's determination that a person ~~violated any provision~~ has engaged, is engaging, or is about to engage in any act or practice constituting a violation of this chapter or any rule adopted pursuant to this chapter, the commissioner may issue an order ~~directed at~~ directing the person to cease and desist from engaging in the act or practice resulting in the violation or to take other affirmative action as in the judgment of the commissioner is necessary to comply with the requirements of this chapter.

2. If a hearing is not timely requested, the summary order becomes final by operation of law. The order shall remain effective from the date of issuance until the date the order becomes final by operation of law or is overturned by a presiding officer or court following a request for hearing. A person who has been issued a summary order under this section may contest it by filing a request for a contested case proceeding as provided in chapter 17A and in accordance with rules adopted by the commissioner. However, the person shall have at least thirty days from the date that the order is issued in order to file the request. Section 17A.18A is inapplicable to a summary order issued under this subsection.

3. A person violating a summary order issued under this subsection[1] shall be deemed in contempt of that order. The commissioner may petition the district court to enforce the order as certified by the commissioner. The district court shall adjudge the person in contempt of the order if the court finds after hearing that the person is not in compliance with the order. The court shall assess a civil penalty against the person in an amount not less than three thousand dollars but not greater than ten thousand dollars per violation, and may issue further orders as it deems appropriate.

Sec. 31. NEW SECTION. 523C.23 INVESTIGATIONS AND SUBPOENAS.

1. a. In enforcing this chapter, the commissioner may conduct a public or private investigation in order to do any of the following:

(1) Determine whether a person has violated or is about to violate a provision of this chapter or a rule or order under this chapter.

(2) Aid in the enforcement of this chapter or in the prescribing of rules and forms under this chapter.

b. In carrying out this subsection, the commissioner may do all of the following:

(1) Conduct the investigation within or outside of this state.

(2) Require or allow a person to file a statement in writing regarding the facts or circumstances concerning a matter to be investigated. The commissioner may require that the statement be made under oath.

(3) Apply to the district court for the issuance of an order requiring a person's appearance before the commissioner or the attorney general. The person may also be required to produce documentary evidence germane to the subject of the investigation. The failure to obey an order under this subsection constitutes contempt of court.

c. Information obtained in the course of an investigation is confidential as provided in section 22.7. However, upon a determination that disclosure of the information is necessary or appropriate in the public interest or for the protection of consumers, the commissioner may do any of the following:

(1) Share information obtained during the course of the investigation with another regulatory authority or government agency.

(2) Publish information obtained during the course of the investigation which concerns a violation of this chapter or a rule or order under this chapter.

2. Except as provided in section 523C.19, a proceeding instituted under this chapter shall be conducted pursuant to chapter 17A and rules adopted by the commissioner pursuant to chapter 17A.

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[1] See chapter 1232, §82 herein

3. In an investigation or proceeding conducted under this chapter, the commissioner or any designee of the commissioner may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any records which the commissioner deems relevant or material to the inquiry.

4. A person is not excused from attending and testifying or from producing a document or record before the commissioner or in obedience to a subpoena of the commissioner or an officer designated by the commissioner, or in a proceeding instituted by the commissioner, on the grounds that the testimony or evidence, documentary or otherwise, required of the person may tend to incriminate or subject the person to a penalty or forfeiture. However, a person shall not be prosecuted or subjected to any penalty or forfeiture due to a transaction or matter about which the person is compelled, after claiming privilege against self-incrimination, to testify or produce evidence, documentary or otherwise. The person testifying, however, is not exempt from prosecution and punishment for perjury or contempt committed while testifying.

DIVISION V
RETIREMENT CARE CONTRACTS

Sec. 32. Section 523D.13, Code 1999, is amended to read as follows:

523D.13 COMPLIANCE ORDERS.

1. Upon the commissioner's determination that a provider ~~has violated a provision~~ has engaged, is engaging, or is about to engage in any act or practice constituting a violation of this chapter or a rule adopted pursuant to this chapter, the commissioner may issue ~~an~~ a summary order ~~requiring a~~ directing the provider to cease and desist from ~~an unlawful~~ engaging in the act or practice resulting in the violation or to take other affirmative action as in the judgment of the commissioner is necessary to comply with the requirements of this chapter.

2. ~~The person named in the order may, within fourteen days after receipt of the order, file a written request for a hearing. The hearing shall be held in accordance with chapter 17A. If a hearing is not requested, the order shall become permanent.~~ If a hearing is not timely requested, the summary order becomes final by operation of law. The order shall remain effective from the date of issuance until the date the order becomes final by operation of law or is overturned by a presiding officer or court following a request for hearing. A person who has been issued a summary order under this section may contest it by filing a request for a contested case proceeding as provided in chapter 17A and in accordance with rules adopted by the commissioner. However, the person shall have at least thirty days from the date that the order is issued in order to file the request. Section 17A.18A is inapplicable to a summary order issued under this section.

3. A person violating a summary order issued under this section shall be deemed in contempt of that order. The commissioner may petition the district court to enforce the order as certified by the commissioner. The district court shall adjudge the person in contempt of the order if the court finds after hearing that the person is not in compliance with the order. The court shall assess a civil penalty against the person in an amount not less than three thousand dollars but not greater than ten thousand dollars per violation, and may issue further orders as it deems appropriate.

DIVISION VI
PROBATE TRANSFER ON DEATH

Sec. 33. Section 633.801, subsection 6, Code 1999, is amended to read as follows:

6. "Security" means a security as defined in section 502.102. For purposes of this chapter, "security" includes, but is not limited to, a certificated security, an uncertificated security, and a security account.

DIVISION VII
VIATICAL SETTLEMENT CONTRACTS

Sec. 34. Section 502.202, subsection 19, Code Supplement 1999, is amended by adding the following new paragraph:

NEW PARAGRAPH. e. The assignment, transfer, sale, devise, or bequest of the death benefit or ownership of a life insurance policy or contract made by the policyholder or contract owner to a viatical settlement provider, if the viatical settlement transaction complies with chapter 508E, including rules adopted pursuant to that chapter.

Sec. 35. NEW SECTION. 508E.1 AUTHORITY OF THE COMMISSIONER.

The commissioner shall regulate, but not prohibit, the sale of viatical settlements as provided in this chapter.

Sec. 36. NEW SECTION. 508E.2 DEFINITIONS.

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

1. "Chronically ill" means any of the following:

a. Being unable to perform or maintain at least two activities of daily living, including but not limited to eating, toileting, transferring, bathing, dressing, or continence.

b. Requiring substantial supervision to protect the individual from threats to health and safety due to severe cognitive impairment.

c. Having a level of disability similar to that described in paragraph "a" as determined by the United States secretary of health and human services.

2. "Commissioner" means the commissioner of insurance.

3. "Terminally ill" means having an illness or sickness that can reasonably be expected to result in death in twenty-four months or less.

4. "Viatical settlement contract" means a written agreement entered into between a viatical settlement provider and a person who owns or is insured under a life insurance policy or certificate, or who owns or is covered under a group life insurance policy. "Viatical settlement contract" does not mean a written agreement entered into between a viator and a person having an insurable interest in the viator's life.

5. "Viator" means a person selling a life insurance policy or certificate.

Sec. 37. NEW SECTION. 508E.3 VIATICAL SETTLEMENT CONTRACT LIMITATIONS.

1. a. Subject to paragraph "b", a viatical settlement contract shall not be entered into until after the contestable period of the life insurance policy or certificate has expired.

b. If a viatical settlement contract is entered into during the contestable period of the life insurance policy or certificate, a rebuttable presumption arises that it was the intent of the person entering into such contract with a viatical settlement provider to enter into such contract at the time the life insurance policy or certificate was originally purchased. If such person fails to rebut the presumption, the viatical settlement contract is void.

2. A viatical settlement contract shall only be entered into with an individual who owns a life insurance policy or certificate which covers the life of an individual who is either terminally ill or chronically ill, or as otherwise provided pursuant to rules adopted by the commissioner.

Sec. 38. NEW SECTION. 508E.4 RULEMAKING AUTHORITY.

The commissioner shall adopt rules as necessary to administer this chapter. Rules shall be adopted relating to all of the following:

1. Advertising standards.
2. Disclosure.
3. Examinations.
4. Insurance company practices.
5. License requirements.
6. Prohibited practices.
7. Refund provisions.
8. Reporting.

9. Standards for reasonableness of payment.
10. Unfair trade practices.
11. Viatical settlement contracts.

Approved April 26, 2000

CHAPTER 1148

OFFICIAL PUBLICATIONS AND COUNTY RECORDS

H.F. 2429

AN ACT relating to the publication and recordkeeping duties of county officers by providing for the maintenance of permanent records by electronic means and the determination of publication rates.

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

Section 1. COUNTY SYSTEM FOR DATA STORAGE AND RETRIEVAL.

1. Chapters 6B, 10A, 11, 12B, 24, 35B, 43, 50, 62, 64, 65, 66, 69, 96, 99, 124C, 144, 147, 161A, 177A, 230, 257B, 306, 309, 311, 317, 321A, 347B, 353, 354, 357, 357C, 357D, 357E, 357F, 357G, 358, 358C, 359, 359A, 380, 384, 386, 420, 422, 424, 425, 426A, 428, 433, 434, 435, 436, 437, 437A, 438, 440, 441, 443, 444, 448, 449, 455I, 468, 556F, 557C, 558, 561, 595, 614, 658, and 717B, Code 1999 and Code Supplement 1999, are amended by adding the following new definition:

NEW DEFINITION. As used in this chapter, unless the context otherwise requires, "list", "book", "record", or "schedule" kept by a county auditor, assessor, treasurer, recorder, sheriff, or other county officer means the county system as defined in section 445.1.

2. The Code editor is directed to add the definition prescribed in subsection 1 to the definition sections of each chapter listed or, if a definition section does not exist, to create a definition section including the definition prescribed in subsection 1 for the chapter in the Code of Iowa, 2001.

Sec. 2. Section 618.11, Code 1999, is amended by striking the section and inserting in lieu thereof the following:

618.11 FEES FOR PUBLICATION.

The compensation, when not otherwise fixed, for the publication in a newspaper of any notice, order, citation, or other publication required or allowed by law shall be at a rate of thirty-four cents for one insertion and twenty-three cents for each subsequent insertion for each line of eight point type two inches in length, or its equivalent. Beginning June 1, 2001, and each June 1 thereafter, the state printing administrator shall calculate a new rate for the following fiscal year as prescribed in this section, and shall publish this rate as a notice in the Iowa administrative bulletin prior to the first day of the following calendar month. The new rate shall be effective on the first day of the calendar month following its publication. The rate shall be calculated by applying the percentage change in the consumer price index for all urban consumers for the last available twelve-month period published in the federal register by the federal department of labor, bureau of labor statistics, to the existing rate as an increase or decrease in the rate rounded to the nearest one-tenth of a cent. The calculation and publication of the rate by the state printing administrator shall be exempt from the provisions of chapters 17A and 25B.

Approved April 26, 2000

CHAPTER 1149

UNIFORM COMMERCIAL CODE — SECURED TRANSACTIONS

H.F. 2513

AN ACT providing for secured transactions under the uniform commercial code, by adopting new Article 9, eliminating conflicting provisions, and providing an effective date.

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

DIVISION I
ARTICLE 9 AMENDMENTS
ARTICLE 9 — SECURED TRANSACTIONS
PART 1
GENERAL PROVISIONS
A. SHORT TITLE, DEFINITIONS, AND GENERAL CONCEPTS

Section 1. NEW SECTION. 554.9101 SHORT TITLE.
This Article may be cited as Uniform Commercial Code — Secured Transactions.

Sec. 2. NEW SECTION. 554.9102 DEFINITIONS AND INDEX OF DEFINITIONS.
1. ARTICLE 9 DEFINITIONS. In this Article:
a. "Accession" means goods that are physically united with other goods in such a manner that the identity of the original goods is not lost.
b. "Account", except as used in "account for", means a right to payment of a monetary obligation, whether or not earned by performance, (i) for property that has been or is to be sold, leased, licensed, assigned, or otherwise disposed of, (ii) for services rendered or to be rendered, (iii) for a policy of insurance issued or to be issued, (iv) for a secondary obligation incurred or to be incurred, (v) for energy provided or to be provided, (vi) for the use or hire of a vessel under a charter or other contract, (vii) arising out of the use of a credit or charge card or information contained on or for use with the card, or (viii) as winnings in a lottery or other game of chance operated or sponsored by a state, governmental unit of a state, or person licensed or authorized to operate the game by a state or governmental unit of a state. The term includes health-care-insurance receivables. The term does not include (i) rights to payment evidenced by chattel paper or an instrument, (ii) commercial tort claims, (iii) deposit accounts, (iv) investment property, (v) letter-of-credit rights or letters of credit, or (vi) rights to payment for money or funds advanced or sold, other than rights arising out of the use of a credit or charge card or information contained on or for use with the card.
c. "Account debtor" means a person obligated on an account, chattel paper, or general intangible. The term does not include persons obligated to pay a negotiable instrument, even if the instrument constitutes part of chattel paper.
d. "Accounting", except as used in "accounting for", means a record:
(1) authenticated by a secured party;
(2) indicating the aggregate unpaid secured obligations as of a date not more than thirty-five days earlier or thirty-five days later than the date of the record; and
(3) identifying the components of the obligations in reasonable detail.
e. "Agricultural lien" means an interest, other than a security interest, in farm products:
(1) which secures payment or performance of an obligation for:
(a) goods or services furnished in connection with a debtor's farming operation; or
(b) rent on real property leased by a debtor in connection with its farming operation;
(2) which is created by statute in favor of a person that:
(a) in the ordinary course of its business furnished goods or services to a debtor in connection with a debtor's farming operation; or
(b) leased real property to a debtor in connection with the debtor's farming operation; and

(3) whose effectiveness does not depend on the person's possession of the personal property.

f. "As-extracted collateral" means:

(1) oil, gas, or other minerals that are subject to a security interest that:

(a) is created by a debtor having an interest in the minerals before extraction; and

(b) attaches to the minerals as extracted; or

(2) accounts arising out of the sale at the wellhead or minehead of oil, gas, or other minerals in which the debtor had an interest before extraction.

g. "Authenticate" means:

(1) to sign; or

(2) to execute or otherwise adopt a symbol, or encrypt or similarly process a record in whole or in part, with the present intent of the authenticating person to identify the person and adopt or accept a record.

h. "Bank" means an organization that is engaged in the business of banking. The term includes savings banks, savings and loan associations, credit unions, and trust companies.

i. "Cash proceeds" means proceeds that are money, checks, deposit accounts, or the like.

j. "Certificate of title" means a certificate of title with respect to which a statute provides for the security interest in question to be indicated on the certificate as a condition or result of the security interest's obtaining priority over the rights of a lien creditor with respect to the collateral.

k. "Chattel paper" means a record or records that evidence both a monetary obligation and a security interest in specific goods, a security interest in specific goods and software used in the goods, a security interest in specific goods and license of software used in the goods, a lease of specific goods, or a lease of specific goods and license of software used in the goods. In this paragraph, "monetary obligation" means a monetary obligation secured by the goods or owed under a lease of the goods and includes a monetary obligation with respect to software used in the goods. The term does not include (i) charters or other contracts involving the use or hire of a vessel or (ii) records that evidence a right to payment arising out of the use of a credit or charge card or information contained on or for use with the card. If a transaction is evidenced by records that include an instrument or series of instruments, the group of records taken together constitutes chattel paper.

l. "Collateral" means the property subject to a security interest or agricultural lien. The term includes:

(1) proceeds to which a security interest attaches;

(2) accounts, chattel paper, payment intangibles, and promissory notes that have been sold; and

(3) goods that are the subject of a consignment.

m. "Commercial tort claim" means a claim arising in tort with respect to which:

(1) the claimant is an organization; or

(2) the claimant is an individual and the claim:

(a) arose in the course of the claimant's business or profession; and

(b) does not include damages arising out of personal injury to or the death of an individual.

n. "Commodity account" means an account maintained by a commodity intermediary in which a commodity contract is carried for a commodity customer.

o. "Commodity contract" means a commodity futures contract, an option on a commodity futures contract, a commodity option, or another contract if the contract or option is:

(1) traded on or subject to the rules of a board of trade that has been designated as a contract market for such a contract pursuant to federal commodities laws; or

(2) traded on a foreign commodity board of trade, exchange, or market, and is carried on the books of a commodity intermediary for a commodity customer.

p. "Commodity customer" means a person for which a commodity intermediary carries a commodity contract on its books.

q. "Commodity intermediary" means a person that:

(1) is registered as a futures commission merchant under federal commodities law; or

(2) in the ordinary course of its business provides clearance or settlement services for a board of trade that has been designated as a contract market pursuant to federal commodities law.

r. "Communicate" means:

(1) to send a written or other tangible record;

(2) to transmit a record by any means agreed upon by the persons sending and receiving the record; or

(3) in the case of transmission of a record to or by a filing office, to transmit a record by any means prescribed by filing-office rule.

s. "Consignee" means a merchant to which goods are delivered in a consignment.

t. "Consignment" means a transaction, regardless of its form, in which a person delivers goods to a merchant for the purpose of sale and:

(1) the merchant:

(a) deals in goods of that kind under a name other than the name of the person making delivery;

(b) is not an auctioneer; and

(c) is not generally known by its creditors to be substantially engaged in selling the goods of others;

(2) with respect to each delivery, the aggregate value of the goods is one thousand dollars or more at the time of delivery;

(3) the goods are not consumer goods immediately before delivery; and

(4) the transaction does not create a security interest that secures an obligation.

u. "Consignor" means a person that delivers goods to a consignee in a consignment.

v. "Consumer debtor" means a debtor in a consumer transaction.

w. "Consumer goods" means goods that are used or bought for use primarily for personal, family, or household purposes.

x. "Consumer-goods transaction" means a consumer transaction in which:

(1) an individual incurs an obligation primarily for personal, family, or household purposes; and

(2) a security interest in consumer goods secures the obligation.

y. "Consumer obligor" means an obligor who is an individual and who incurred the obligation as part of a transaction entered into primarily for personal, family, or household purposes.

z. "Consumer transaction" means a transaction in which (i) an individual incurs an obligation primarily for personal, family, or household purposes, (ii) a security interest secures the obligation, and (iii) the collateral is held or acquired primarily for personal, family, or household purposes. The term includes consumer-goods transactions.

aa. "Continuation statement" means an amendment of a financing statement which:

(1) identifies, by its file number, the initial financing statement to which it relates; and

(2) indicates that it is a continuation statement for, or that it is filed to continue the effectiveness of, the identified financing statement.

ab. "Debtor" means:

(1) a person having an interest, other than a security interest or other lien, in the collateral, whether or not the person is an obligor;

(2) a seller of accounts, chattel paper, payment intangibles, or promissory notes; or

(3) a consignee.

ac. "Deposit account" means a demand, time, savings, passbook, or similar account maintained with a bank. The term does not include investment property or accounts evidenced by an instrument.

ad. "Document" means a document of title or a receipt of the type described in section 554.7201, subsection 2.

ae. "Electronic chattel paper" means chattel paper evidenced by a record or records consisting of information stored in an electronic medium.

af. "Encumbrance" means a right, other than an ownership interest, in real property. The term includes mortgages and other liens on real property.

ag. "Equipment" means goods other than inventory, farm products, or consumer goods.

ah. "Farm products" means goods, other than standing timber, with respect to which the debtor is engaged in a farming operation and which are:

(1) crops grown, growing, or to be grown, including:

(a) crops produced on trees, vines, and bushes; and

(b) aquatic goods produced in aquacultural operations;

(2) livestock, born or unborn, including aquatic goods produced in aquacultural operations;

(3) supplies used or produced in a farming operation; or

(4) products of crops or livestock in their unmanufactured states.

ai. "Farming operation" means raising, cultivating, propagating, fattening, grazing, or any other farming, livestock, or aquacultural operation.

aj. "File number" means the number assigned to an initial financing statement pursuant to section 554.9519, subsection 1.

ak. "Filing office" means an office designated in section 554.9501 as the place to file a financing statement.

al. "Filing-office rule" means a rule adopted pursuant to section 554.9526.

am. "Financing statement" means a record or records composed of an initial financing statement and any filed record relating to the initial financing statement.

an. "Fixture filing" means the filing of a financing statement covering goods that are or are to become fixtures and satisfying section 554.9502, subsections 1 and 2. The term includes the filing of a financing statement covering goods of a transmitting utility which are or are to become fixtures.

ao. "Fixtures" means goods that have become so related to particular real property that an interest in them arises under real property law.

ap. "General intangible" means any personal property, including things in action, other than accounts, chattel paper, commercial tort claims, deposit accounts, documents, goods, instruments, investment property, letter-of-credit rights, letters of credit, money, and oil, gas, or other minerals before extraction. The term includes payment intangibles and software.

aq. "Good faith" means honesty in fact and the observance of reasonable commercial standards of fair dealing.

ar. "Goods" means all things that are movable when a security interest attaches. The term includes (i) fixtures, (ii) standing timber that is to be cut and removed under a conveyance or contract for sale, (iii) the unborn young of animals, (iv) crops grown, growing, or to be grown, even if the crops are produced on trees, vines, or bushes, and (v) manufactured homes. The term also includes a computer program embedded in goods and any supporting information provided in connection with a transaction relating to the program if (i) the program is associated with the goods in such a manner that it customarily is considered part of the goods, or (ii) by becoming the owner of the goods, a person acquires a right to use the program in connection with the goods. The term does not include a computer program embedded in goods that consist solely of the medium in which the program is embedded. The term also does not include accounts, chattel paper, commercial tort claims, deposit accounts, documents, general intangibles, instruments, investment property, letter-of-credit rights, letters of credit, money, or oil, gas, or other minerals before extraction.

as. "Governmental unit" means a subdivision, agency, department, county, parish, municipality, or other unit of the government of the United States, a state, or a foreign country. The term includes an organization having a separate corporate existence if the organization is eligible to issue debt on which interest is exempt from income taxation under the laws of the United States.

at. "Health-care-insurance receivable" means an interest in or claim under a policy of insurance which is a right to payment of a monetary obligation for health-care goods or services provided.

au. "Instrument" means a negotiable instrument or any other writing that evidences a right to the payment of a monetary obligation, is not itself a security agreement or lease, and is of a type that in ordinary course of business is transferred by delivery with any necessary indorsement or assignment. The term does not include (i) investment property, (ii) letters of credit, or (iii) writings that evidence a right to payment arising out of the use of a credit or charge card or information contained on or for use with the card.

av. "Inventory" means goods, other than farm products, which:

(1) are leased by a person as lessor;

(2) are held by a person for sale or lease or to be furnished under a contract of service;

(3) are furnished by a person under a contract of service; or

(4) consist of raw materials, work in process, or materials used or consumed in a business.

aw. "Investment property" means a security, whether certificated or uncertificated, security entitlement, securities account, commodity contract, or commodity account.

ax. "Jurisdiction of organization", with respect to a registered organization, means the jurisdiction under whose law the organization is organized.

ay. "Letter-of-credit right" means a right to payment or performance under a letter of credit, whether or not the beneficiary has demanded or is at the time entitled to demand payment or performance. The term does not include the right of a beneficiary to demand payment or performance under a letter of credit.

az. "Lien creditor" means:

(1) a creditor that has acquired a lien on the property involved by attachment, levy, or the like;

(2) an assignee for benefit of creditors from the time of assignment;

(3) a trustee in bankruptcy from the date of the filing of the petition; or

(4) a receiver in equity from the time of appointment.

ba. "Manufactured home" means a structure, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width or forty body feet or more in length, or, when erected on site, is three hundred twenty or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein. The term includes any structure that meets all of the requirements of this paragraph except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the United States secretary of housing and urban development and complies with the standards established under Title 42 of the United States Code.

bb. "Manufactured-home transaction" means a secured transaction:

(1) that creates a purchase-money security interest in a manufactured home, other than a manufactured home held as inventory; or

(2) in which a manufactured home, other than a manufactured home held as inventory, is the primary collateral.

bc. "Mortgage" means a consensual interest in real property, including fixtures, which secures payment or performance of an obligation.

bd. "New debtor" means a person that becomes bound as debtor under section 554.9203, subsection 4, by a security agreement previously entered into by another person.

be. "New value" means (i) money, (ii) money's worth in property, services, or new credit, or (iii) release by a transferee of an interest in property previously transferred to the transferee. The term does not include an obligation substituted for another obligation.

bf. "Noncash proceeds" means proceeds other than cash proceeds.

bg. "Obligor" means a person that, with respect to an obligation secured by a security interest in or an agricultural lien on the collateral, (i) owes payment or other performance of the obligation, (ii) has provided property other than the collateral to secure payment or other performance of the obligation, or (iii) is otherwise accountable in whole or in part for payment or other performance of the obligation. The term does not include issuers or nominated persons under a letter of credit.

bh. "Original debtor", except as used in section 554.9310, subsection 3, means a person that, as debtor, entered into a security agreement to which a new debtor has become bound under section 554.9203, subsection 4.

bi. "Payment intangible" means a general intangible under which the account debtor's principal obligation is a monetary obligation.

bj. "Person related to", with respect to an individual, means:

(1) the spouse of the individual;

(2) a brother, brother-in-law, sister, or sister-in-law of the individual;

(3) an ancestor or lineal descendant of the individual or the individual's spouse; or

(4) any other relative, by blood or marriage, of the individual or the individual's spouse who shares the same home with the individual.

bk. "Person related to", with respect to an organization, means:

(1) a person directly or indirectly controlling, controlled by, or under common control with the organization;

(2) an officer or director of, or a person performing similar functions with respect to, the organization;

(3) an officer or director of, or a person performing similar functions with respect to, a person described in subparagraph (1);

(4) the spouse of an individual described in subparagraph (1), (2), or (3); or

(5) an individual who is related by blood or marriage to an individual described in subparagraph (1), (2), (3), or (4) and shares the same home with the individual.

bl. "Proceeds", except as used in section 554.9609, subsection 2, means the following property:

(1) whatever is acquired upon the sale, lease, license, exchange, or other disposition of collateral;

(2) whatever is collected on, or distributed on account of, collateral;

(3) rights arising out of collateral;

(4) to the extent of the value of collateral, claims arising out of the loss, nonconformity, or interference with the use of, defects or infringement of rights in, or damage to, the collateral; or

(5) to the extent of the value of collateral and to the extent payable to the debtor or the secured party, insurance payable by reason of the loss or nonconformity of, defects or infringement of rights in, or damage to, the collateral.

bm. "Promissory note" means an instrument that evidences a promise to pay a monetary obligation, does not evidence an order to pay, and does not contain an acknowledgment by a bank that the bank has received for deposit a sum of money or funds.

bn. "Proposal" means a record authenticated by a secured party which includes the terms on which the secured party is willing to accept collateral in full or partial satisfaction of the obligation it secures pursuant to sections 554.9620, 554.9621, and 554.9622.

bo. "Public-finance transaction" means a secured transaction in connection with which:

(1) debt securities are issued;

(2) all or a portion of the securities issued have an initial stated maturity of at least twenty years; and

(3) the debtor, obligor, secured party, account debtor or other person obligated on collateral, assignor or assignee of a secured obligation, or assignor or assignee of a security interest is a state or a governmental unit of a state.

bp. "Pursuant to commitment", with respect to an advance made or other value given by a secured party, means pursuant to the secured party's obligation, whether or not a subsequent event of default or other event not within the secured party's control has relieved or may relieve the secured party from its obligation.

bq. "Record", except as used in "for record", "of record", "record or legal title", and "record owner", means information that is inscribed on a tangible medium or which is stored in an electronic or other medium and is retrievable in perceivable form.

br. "Registered organization" means an organization organized solely under the law of a single state or the United States and as to which the state or the United States must maintain a public record showing the organization to have been organized.

bs. "Secondary obligor" means an obligor to the extent that:

(1) the obligor's obligation is secondary; or

(2) the obligor has a right of recourse with respect to an obligation secured by collateral against the debtor, another obligor, or property of either.

bt. "Secured party" means:

(1) a person in whose favor a security interest is created or provided for under a security agreement, whether or not any obligation to be secured is outstanding;

(2) a person that holds an agricultural lien;

(3) a consignor;

(4) a person to which accounts, chattel paper, payment intangibles, or promissory notes have been sold;

(5) a trustee, indenture trustee, agent, collateral agent, or other representative in whose favor a security interest or agricultural lien is created or provided for; or

(6) a person that holds a security interest arising under section 554.2401, 554.2505, 554.2711, subsection 3, section 554.4210, 554.5118, or 554.13508, subsection 5.

bu. "Security agreement" means an agreement that creates or provides for a security interest.

bv. "Send", in connection with a record or notification, means:

(1) to deposit in the mail, deliver for transmission, or transmit by any other usual means of communication, with postage or cost of transmission provided for, addressed to any address reasonable under the circumstances; or

(2) to cause the record or notification to be received within the time that it would have been received if properly sent under subparagraph (1).

bw. "Software" means a computer program and any supporting information provided in connection with a transaction relating to the program. The term does not include a computer program that is included in the definition of goods.

bx. "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.

by. "Supporting obligation" means a letter-of-credit right or secondary obligation that supports the payment or performance of an account, chattel paper, a document, a general intangible, an instrument, or investment property.

bz. "Tangible chattel paper" means chattel paper evidenced by a record or records consisting of information that is inscribed on a tangible medium.

ca. "Termination statement" means an amendment of a financing statement which:

(1) identifies, by its file number, the initial financing statement to which it relates; and

(2) indicates either that it is a termination statement or that the identified financing statement is no longer effective.

cb. "Transmitting utility" means a person primarily engaged in the business of:

(1) operating a railroad, subway, street railway, or trolley bus;

(2) transmitting communications electrically, electromagnetically, or by light;

(3) transmitting goods by pipeline or sewer; or

(4) transmitting or producing and transmitting electricity, steam, gas, or water.

2. DEFINITIONS IN OTHER ARTICLES. The following definitions in other Articles apply to this Article:

"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
"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

3. ARTICLE 1 DEFINITIONS AND PRINCIPLES. Article 1 contains general definitions and principles of construction and interpretation applicable throughout this Article.

4. FEDERAL FOOD SECURITY ACT. For purposes of the Federal Food Security Act, 7 U.S.C. § 1631, written notice shall be considered to be received by the person to whom it was delivered if the notice is delivered in hand to the person, or mailed by certified or registered mail with the proper postage and properly addressed to the person to whom it was sent. The refusal of a person to whom a notice is so mailed to accept delivery of the notice shall be considered receipt.

Sec. 3. NEW SECTION. 554.9103 PURCHASE-MONEY SECURITY INTEREST — APPLICATION OF PAYMENTS — BURDEN OF ESTABLISHING.

1. DEFINITIONS. In this section:

a. "purchase-money collateral" means goods or software that secures a purchase-money obligation incurred with respect to that collateral; and

b. "purchase-money obligation" means an obligation of an obligor incurred as all or part of the price of the collateral or for value given to enable the debtor to acquire rights in or the use of the collateral if the value is in fact so used.

2. PURCHASE-MONEY SECURITY INTEREST IN GOODS. A security interest in goods is a purchase-money security interest:

a. to the extent that the goods are purchase-money collateral with respect to that security interest;

b. if the security interest is in inventory that is or was purchase-money collateral, also to the extent that the security interest secures a purchase-money obligation incurred with respect to other inventory in which the secured party holds or held a purchase-money security interest; and

c. also to the extent that the security interest secures a purchase-money obligation incurred with respect to software in which the secured party holds or held a purchase-money security interest.

3. PURCHASE-MONEY SECURITY INTEREST IN SOFTWARE. A security interest in software is a purchase-money security interest to the extent that the security interest also secures a purchase-money obligation incurred with respect to goods in which the secured party holds or held a purchase-money security interest if:

a. the debtor acquired its interest in the software in an integrated transaction in which it acquired an interest in the goods; and

b. the debtor acquired its interest in the software for the principal purpose of using the software in the goods.

4. CONSIGNOR'S INVENTORY PURCHASE-MONEY SECURITY INTEREST. The security interest of a consignor in goods that are the subject of a consignment is a purchase-money security interest in inventory.

5. APPLICATION OF PAYMENT IN NONCONSUMER-GOODS TRANSACTION. In a transaction other than a consumer-goods transaction, if the extent to which a security interest is a purchase-money security interest depends on the application of a payment to a particular obligation, the payment must be applied:

a. in accordance with any reasonable method of application to which the parties agree;

b. in the absence of the parties' agreement to a reasonable method, in accordance with any intention of the obligor manifested at or before the time of payment; or

c. in the absence of an agreement to a reasonable method and a timely manifestation of the obligor's intention, in the following order:

(1) to obligations that are not secured; and

(2) if more than one obligation is secured, to obligations secured by purchase-money security interests in the order in which those obligations were incurred.

6. NO LOSS OF STATUS OF PURCHASE-MONEY SECURITY INTEREST IN NONCONSUMER-GOODS TRANSACTION. In a transaction other than a consumer-goods transaction, a purchase-money security interest does not lose its status as such, even if:

a. the purchase-money collateral also secures an obligation that is not a purchase-money obligation;

b. collateral that is not purchase-money collateral also secures the purchase-money obligation; or

c. the purchase-money obligation has been renewed, refinanced, consolidated, or restructured.

7. BURDEN OF PROOF IN NONCONSUMER-GOODS TRANSACTION. In a transaction other than a consumer-goods transaction, a secured party claiming a purchase-money security interest has the burden of establishing the extent to which the security interest is a purchase-money security interest.

8. NONCONSUMER-GOODS TRANSACTIONS — NO INFERENCE. The limitation of the rules in subsections 5, 6, and 7 to transactions other than consumer-goods transactions is intended to leave to the court the determination of the proper rules in consumer-goods transactions. The court may not infer from that limitation the nature of the proper rule in consumer-goods transactions and may continue to apply established approaches.

Sec. 4. NEW SECTION. 554.9104 CONTROL OF DEPOSIT ACCOUNT.

1. REQUIREMENTS FOR CONTROL. A secured party has control of a deposit account if:

a. the secured party is the bank with which the deposit account is maintained;

b. the debtor, secured party, and bank have agreed in an authenticated record that the bank will comply with instructions originated by the secured party directing disposition of the funds in the deposit account without further consent by the debtor; or

c. the secured party becomes the bank's customer with respect to the deposit account.

2. DEBTOR'S RIGHT TO DIRECT DISPOSITION. A secured party that has satisfied subsection 1 has control, even if the debtor retains the right to direct the disposition of funds from the deposit account.

Sec. 5. NEW SECTION. 554.9105 CONTROL OF ELECTRONIC CHATTEL PAPER.
A secured party has control of electronic chattel paper if the record or records comprising the chattel paper are created, stored, and assigned in such a manner that:
1. a single authoritative copy of the record or records exists which is unique, identifiable and, except as otherwise provided in subsections 4, 5, and 6, unalterable;
2. the authoritative copy identifies the secured party as the assignee of the record or records;
3. the authoritative copy is communicated to and maintained by the secured party or its designated custodian;
4. copies or revisions that add or change an identified assignee of the authoritative copy can be made only with the participation of the secured party;
5. 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
6. any revision of the authoritative copy is readily identifiable as an authorized or unauthorized revision.

Sec. 6. NEW SECTION. 554.9106 CONTROL OF INVESTMENT PROPERTY.
1. CONTROL UNDER SECTION 554.8106. A person has control of a certificated security, uncertificated security, or security entitlement as provided in section 554.8106.
2. CONTROL OF COMMODITY CONTRACT. A secured party has control of a commodity contract if:
a. the secured party is the commodity intermediary with which the commodity contract is carried; or
b. the commodity customer, secured party, and commodity intermediary have agreed that the commodity intermediary will apply any value distributed on account of the commodity contract as directed by the secured party without further consent by the commodity customer.
3. EFFECT OF CONTROL OF SECURITIES ACCOUNT OR COMMODITY ACCOUNT. A secured party having control of all security entitlements or commodity contracts carried in a securities account or commodity account has control over the securities account or commodity account.

Sec. 7. NEW SECTION. 554.9107 CONTROL OF LETTER-OF-CREDIT RIGHT.
A secured party has control of a letter-of-credit right to the extent of any right to payment or performance by the issuer or any nominated person if the issuer or nominated person has consented to an assignment of proceeds of the letter of credit under section 554.5114, subsection 3, or otherwise applicable law or practice.

Sec. 8. NEW SECTION. 554.9108 SUFFICIENCY OF DESCRIPTION.
1. SUFFICIENCY OF DESCRIPTION. Except as otherwise provided in subsections 3, 4, and 5, a description of personal or real property is sufficient, whether or not it is specific, if it reasonably identifies what is described.
2. EXAMPLES OF REASONABLE IDENTIFICATION. Except as otherwise provided in subsection 4, a description of collateral reasonably identifies the collateral if it identifies the collateral by:
a. specific listing;
b. category;
c. except as otherwise provided in subsection 5, a type of collateral defined in this chapter;
d. quantity;
e. computational or allocational formula or procedure; or
f. except as otherwise provided in subsection 3, any other method, if the identity of the collateral is objectively determinable.
3. SUPERGENERIC DESCRIPTION NOT SUFFICIENT. A description of collateral as "all the debtor's assets" or "all the debtor's personal property" or using words of similar import does not reasonably identify the collateral.

4. INVESTMENT PROPERTY. Except as otherwise provided in subsection 5, a description of a security entitlement, securities account, or commodity account is sufficient if it describes:

a. the collateral by those terms or as investment property; or

b. the underlying financial asset or commodity contract.

5. WHEN DESCRIPTION BY TYPE INSUFFICIENT. A description only by type of collateral defined in this chapter is an insufficient description of:

a. a commercial tort claim; or

b. in a consumer transaction, consumer goods, a security entitlement, a securities account, or a commodity account.

B. APPLICABILITY OF ARTICLE

Sec. 9. NEW SECTION. 554.9109 SCOPE.

1. GENERAL SCOPE OF ARTICLE. Except as otherwise provided in subsections 3 and 4, this Article applies to:

a. a transaction, regardless of its form, that creates a security interest in personal property or fixtures by contract;

b. an agricultural lien;

c. a sale of accounts, chattel paper, payment intangibles, or promissory notes;

d. a consignment;

e. a security interest arising under section 554.2401, 554.2505, 554.2711, subsection 3, section 554.9110, or 554.13508, subsection 5; and

f. a security interest arising under section 554.4210 or 554.5118.

2. SECURITY INTEREST IN SECURED OBLIGATION. The application of this Article to a security interest in a secured obligation is not affected by the fact that the obligation is itself secured by a transaction or interest to which this Article does not apply.

3. EXTENT TO WHICH ARTICLE DOES NOT APPLY. This Article does not apply to the extent that:

a. a statute, regulation, or treaty of the United States preempts this Article;

b. another statute of this state expressly governs the creation, perfection, priority, or enforcement of a security interest created by this state or a governmental unit of this state;

c. a statute of another state, a foreign country, or a governmental unit of another state or a foreign country, other than a statute generally applicable to security interests, expressly governs creation, perfection, priority, or enforcement of a security interest created by the state, country, or governmental unit; or

d. the rights of a transferee beneficiary or nominated person under a letter of credit are independent and superior under section 554.5114.

4. INAPPLICABILITY OF ARTICLE. This Article does not apply to:

a. a landlord's lien, other than an agricultural lien;

b. a lien, other than an agricultural lien, given by statute or other rule of law for services or materials, but section 554.9333 applies with respect to priority of the lien;

c. an assignment of a claim for wages, salary, or other compensation of an employee;

d. a sale of accounts, chattel paper, payment intangibles, or promissory notes as part of a sale of the business out of which they arose;

e. an assignment of accounts, chattel paper, payment intangibles, or promissory notes which is for the purpose of collection only;

f. an assignment of a right to payment under a contract to an assignee that is also obligated to perform under the contract;

g. an assignment of a single account, payment intangible, or promissory note to an assignee in full or partial satisfaction of a preexisting indebtedness;

h. a transfer of an interest in or an assignment of a claim under a policy of insurance, other than an assignment by or to a health-care provider of a health-care-insurance receivable and any subsequent assignment of the right to payment, but sections 554.9315 and 554.9322 apply with respect to proceeds and priorities in proceeds;

i. an assignment of a right represented by a judgment, other than a judgment taken on a right to payment that was collateral;

j. a right of recoupment or setoff, but:

(1) section 554.9340 applies with respect to the effectiveness of rights of recoupment or setoff against deposit accounts; and

(2) section 554.9404 applies with respect to defenses or claims of an account debtor;

k. the creation or transfer of an interest in or lien on real property, including a lease or rents thereunder, except to the extent that provision is made for:

(1) liens on real property in sections 554.9203 and 554.9308;

(2) fixtures in section 554.9334;

(3) fixture filings in sections 554.9501, 554.9502, 554.9512, 554.9516, and 554.9519; and

(4) security agreements covering personal and real property in section 554.9604;

l. an assignment of a claim arising in tort, other than a commercial tort claim, but sections 554.9315 and 554.9322 apply with respect to proceeds and priorities in proceeds; or

m. an assignment of a deposit account in a consumer transaction, but sections 554.9315 and 554.9322 apply with respect to proceeds and priorities in proceeds.

n. a transfer, other than a transfer pursuant to chapter 419, by this state or a governmental unit within this state in connection with a public-finance transaction or a transaction that would be a public-finance transaction but for failure to meet the criterion set forth in section 554.9102, subsection 1, paragraph "bo", subparagraph (2).

o. an assignment of a claim or right to receive any of the following:

(1) compensation for injuries or sickness as provided in 26 U.S.C. § 104(a)(1) or (2).

(2) benefits under a special needs trust as provided in 42 U.S.C. § 1396p(d)(4).

Sec. 10. NEW SECTION. 554.9110 SECURITY INTERESTS ARISING UNDER ARTICLE 2 OR 13.

A security interest arising under section 554.2401, 554.2505, 554.2711, subsection 3, or section 554.13508, subsection 5, is subject to this Article. However, until the debtor obtains possession of the goods:

1. the security interest is enforceable, even if section 554.9203, subsection 2, paragraph "c", has not been satisfied;

2. filing is not required to perfect the security interest;

3. the rights of the secured party after default by the debtor are governed by Article 2 or 13; and

4. the security interest has priority over a conflicting security interest created by the debtor.

PART 2
EFFECTIVENESS OF SECURITY AGREEMENT —
ATTACHMENT OF SECURITY INTEREST —
RIGHTS OF PARTIES TO SECURITY AGREEMENT
A. EFFECTIVENESS AND ATTACHMENT

Sec. 11. NEW SECTION. 554.9201 GENERAL EFFECTIVENESS OF SECURITY AGREEMENT.

1. GENERAL EFFECTIVENESS. Except as otherwise provided in this chapter, a security agreement is effective according to its terms between the parties, against purchasers of the collateral, and against creditors.

2. APPLICABLE CONSUMER LAWS. A transaction subject to this Article is subject to any applicable rule of law which establishes a different rule for consumers, including as provided in chapter 537, or any other statute or regulation of this state that regulates the rates, charges, agreements, and practices for loans, credit sales, or other extensions of credit, and to any consumer protection statute or regulation.

3. OTHER APPLICABLE LAW CONTROLS. In case of conflict between this Article and a rule of law, statute, or regulation described in subsection 2, the rule of law, statute, or regulation controls. Failure to comply with a statute or regulation described in subsection 2 has only the effect the statute or regulation specifies.

4. FURTHER DEFERENCE TO OTHER APPLICABLE LAW. This Article does not:

a. validate any rate, charge, agreement, or practice that violates a rule of law, statute, or regulation described in subsection 2; or

b. extend the application of the rule of law, statute, or regulation to a transaction not otherwise subject to it.

Sec. 12. NEW SECTION. 554.9202 TITLE TO COLLATERAL IMMATERIAL.

Except as otherwise provided with respect to consignments or sales of accounts, chattel paper, payment intangibles, or promissory notes, the provisions of this Article with regard to rights and obligations apply whether title to collateral is in the secured party or the debtor.

Sec. 13. NEW SECTION. 554.9203 ATTACHMENT AND ENFORCEABILITY OF SECURITY INTEREST — PROCEEDS — SUPPORTING OBLIGATIONS — FORMAL REQUISITES.

1. ATTACHMENT. A security interest attaches to collateral when it becomes enforceable against the debtor with respect to the collateral, unless an agreement expressly postpones the time of attachment.

2. ENFORCEABILITY. Except as otherwise provided in subsections 3 through 9, a security interest is enforceable against the debtor and third parties with respect to the collateral only if:

a. value has been given;

b. the debtor has rights in the collateral or the power to transfer rights in the collateral to a secured party; and

c. one of the following conditions is met:

(1) the debtor has authenticated a security agreement that provides a description of the collateral and, if the security interest covers timber to be cut, a description of the land concerned;

(2) the collateral is not a certificated security and is in the possession of the secured party under section 554.9313 pursuant to the debtor's security agreement;

(3) the collateral is a certificated security in registered form and the security certificate has been delivered to the secured party under section 554.8301 pursuant to the debtor's security agreement; or

(4) the collateral is deposit accounts, electronic chattel paper, investment property, or letter-of-credit rights, and the secured party has control under section 554.9104, 554.9105, 554.9106, or 554.9107 pursuant to the debtor's security agreement.

3. OTHER UCC PROVISIONS. Subsection 2 is subject to section 554.4210 on the security interest of a collecting bank, section 554.5118 on the security interest of a letter-of-credit issuer or nominated person, section 554.9110 on a security interest arising under Article 2 or 13, and section 554.9206 on security interests in investment property.

4. WHEN PERSON BECOMES BOUND BY ANOTHER PERSON'S SECURITY AGREEMENT. A person becomes bound as debtor by a security agreement entered into by another person if, by operation of law other than this Article or by contract:

a. the security agreement becomes effective to create a security interest in the person's property; or

b. the person becomes generally obligated for the obligations of the other person, including the obligation secured under the security agreement, and acquires or succeeds to all or substantially all of the assets of the other person.

5. EFFECT OF NEW DEBTOR BECOMING BOUND. If a new debtor becomes bound as debtor by a security agreement entered into by another person:

a. the agreement satisfies subsection 2, paragraph "c", with respect to existing or after-acquired property of the new debtor to the extent the property is described in the agreement; and

b. another agreement is not necessary to make a security interest in the property enforceable.

6. PROCEEDS AND SUPPORTING OBLIGATIONS. The attachment of a security interest in collateral gives the secured party the rights to proceeds provided by section 554.9315 and is also attachment of a security interest in a supporting obligation for the collateral.

7. LIEN SECURING RIGHT TO PAYMENT. The attachment of a security interest in a right to payment or performance secured by a security interest or other lien on personal or real property is also attachment of a security interest in the security interest, mortgage, or other lien.

8. SECURITY ENTITLEMENT CARRIED IN SECURITIES ACCOUNT. The attachment of a security interest in a securities account is also attachment of a security interest in the security entitlements carried in the securities account.

9. COMMODITY CONTRACTS CARRIED IN COMMODITY ACCOUNT. The attachment of a security interest in a commodity account is also attachment of a security interest in the commodity contracts carried in the commodity account.

Sec. 14. NEW SECTION. 554.9204 AFTER-ACQUIRED PROPERTY — FUTURE ADVANCES.

1. AFTER-ACQUIRED COLLATERAL. Except as otherwise provided in subsection 2, a security agreement may create or provide for a security interest in after-acquired collateral.

2. WHEN AFTER-ACQUIRED PROPERTY CLAUSE NOT EFFECTIVE. A security interest does not attach under a term constituting an after-acquired property clause to:

a. consumer goods, other than an accession when given as additional security, unless the debtor acquires rights in them within ten days after the secured party gives value; or

b. a commercial tort claim.

3. FUTURE ADVANCES AND OTHER VALUE. A security agreement may provide that collateral secures, or that accounts, chattel paper, payment intangibles, or promissory notes are sold in connection with, future advances or other value, whether or not the advances or value are given pursuant to commitment.

Sec. 15. NEW SECTION. 554.9205 USE OR DISPOSITION OF COLLATERAL PERMISSIBLE.

1. WHEN SECURITY INTEREST NOT INVALID OR FRAUDULENT. A security interest is not invalid or fraudulent against creditors solely because:

a. the debtor has the right or ability to:

(1) use, commingle, or dispose of all or part of the collateral, including returned or repossessed goods;

(2) collect, compromise, enforce, or otherwise deal with collateral;

(3) accept the return of collateral or make repossessions; or

(4) use, commingle, or dispose of proceeds; or

b. the secured party fails to require the debtor to account for proceeds or replace collateral.

2. REQUIREMENTS OF POSSESSION NOT RELAXED. This section does not relax the requirements of possession if attachment, perfection, or enforcement of a security interest depends upon possession of the collateral by the secured party.

Sec. 16. NEW SECTION. 554.9206 SECURITY INTEREST ARISING IN PURCHASE OR DELIVERY OF FINANCIAL ASSET.

1. SECURITY INTEREST WHEN PERSON BUYS THROUGH SECURITIES INTERMEDIARY. A security interest in favor of a securities intermediary attaches to a person's security entitlement if:

a. the person buys a financial asset through the securities intermediary in a transaction in which the person is obligated to pay the purchase price to the securities intermediary at the time of the purchase; and

b. the securities intermediary credits the financial asset to the buyer's securities account before the buyer pays the securities intermediary.

2. SECURITY INTEREST SECURES OBLIGATION TO PAY FOR FINANCIAL ASSET. The security interest described in subsection 1 secures the person's obligation to pay for the financial asset.

3. SECURITY INTEREST IN PAYMENT AGAINST DELIVERY TRANSACTION. A security interest in favor of a person that delivers a certificated security or other financial asset represented by a writing attaches to the security or other financial asset if:

a. the security or other financial asset:

(1) in the ordinary course of business is transferred by delivery with any necessary indorsement or assignment; and

(2) is delivered under an agreement between persons in the business of dealing with such securities or financial assets; and

b. the agreement calls for delivery against payment.

4. SECURITY INTEREST SECURES OBLIGATION TO PAY FOR DELIVERY. The security interest described in subsection 3 secures the obligation to make payment for the delivery.

B. RIGHTS AND DUTIES

Sec. 17. NEW SECTION. 554.9207 RIGHTS AND DUTIES OF SECURED PARTY HAVING POSSESSION OR CONTROL OF COLLATERAL.

1. DUTY OF CARE WHEN SECURED PARTY IN POSSESSION. Except as otherwise provided in subsection 4, a secured party shall use reasonable care in the custody and preservation of collateral in the secured party's possession. In the case of chattel paper or an instrument, reasonable care includes taking necessary steps to preserve rights against prior parties unless otherwise agreed.

2. EXPENSES, RISKS, DUTIES, AND RIGHTS WHEN SECURED PARTY IN POSSESSION. Except as otherwise provided in subsection 4, if a secured party has possession of collateral:

a. reasonable expenses, including the cost of insurance and payment of taxes or other charges, incurred in the custody, preservation, use, or operation of the collateral are chargeable to the debtor and are secured by the collateral;

b. the risk of accidental loss or damage is on the debtor to the extent of a deficiency in any effective insurance coverage;

c. the secured party shall keep the collateral identifiable, but fungible collateral may be commingled; and

d. the secured party may use or operate the collateral:

(1) for the purpose of preserving the collateral or its value;

(2) as permitted by an order of a court having competent jurisdiction; or

(3) except in the case of consumer goods, in the manner and to the extent agreed by the debtor.

3. DUTIES AND RIGHTS WHEN SECURED PARTY IN POSSESSION OR CONTROL. Except as otherwise provided in subsection 4, a secured party having possession of collateral or control of collateral under section 554.9104, 554.9105, 554.9106, or 554.9107:

a. may hold as additional security any proceeds, except money or funds, received from the collateral;

b. shall apply money or funds received from the collateral to reduce the secured obligation, unless remitted to the debtor; and

c. may create a security interest in the collateral.

4. BUYER OF CERTAIN RIGHTS TO PAYMENT. If the secured party is a buyer of accounts, chattel paper, payment intangibles, or promissory notes or a consignor:

a. subsection 1 does not apply unless the secured party is entitled under an agreement:

(1) to charge back uncollected collateral; or

(2) otherwise to full or limited recourse against the debtor or a secondary obligor based on the nonpayment or other default of an account debtor or other obligor on the collateral; and

b. subsections 2 and 3 do not apply.

Sec. 18. NEW SECTION. 554.9208 ADDITIONAL DUTIES OF SECURED PARTY HAVING CONTROL OF COLLATERAL.

1. APPLICABILITY OF SECTION. This section applies to cases in which there is no outstanding secured obligation and the secured party is not committed to make advances, incur obligations, or otherwise give value.

2. DUTIES OF SECURED PARTY AFTER RECEIVING DEMAND FROM DEBTOR. Within ten days after receiving an authenticated demand by the debtor:

a. a secured party having control of a deposit account under section 554.9104, subsection 1, paragraph "b", shall send to the bank with which the deposit account is maintained an authenticated statement that releases the bank from any further obligation to comply with instructions originated by the secured party;

b. a secured party having control of a deposit account under section 554.9104, subsection 1, paragraph "c", shall:

(1) pay the debtor the balance on deposit in the deposit account; or

(2) transfer the balance on deposit into a deposit account in the debtor's name;

c. a secured party, other than a buyer, having control of electronic chattel paper under section 554.9105 shall:

(1) communicate the authoritative copy of the electronic chattel paper 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 chattel paper 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;

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.

Sec. 19. NEW SECTION. 554.9209 DUTIES OF SECURED PARTY IF ACCOUNT DEBTOR HAS BEEN NOTIFIED OF ASSIGNMENT.

1. APPLICABILITY OF SECTION. Except as otherwise provided in subsection 3, this section applies if:

a. there is no outstanding secured obligation; and

b. the secured party is not committed to make advances, incur obligations, or otherwise give value.

2. DUTIES OF SECURED PARTY AFTER RECEIVING DEMAND FROM DEBTOR. Within ten days after receiving an authenticated demand by the debtor, a secured party shall send to an account debtor that has received notification of an assignment to the

secured party as assignee under section 554.9406, subsection 1, an authenticated record that releases the account debtor from any further obligation to the secured party.

3. INAPPLICABILITY TO SALES. This section does not apply to an assignment constituting the sale of an account, chattel paper, or payment intangible.

Sec. 20. NEW SECTION. 554.9210 REQUEST FOR ACCOUNTING — REQUEST REGARDING LIST OF COLLATERAL OR STATEMENT OF ACCOUNT.

1. DEFINITIONS. In this section:

a. "Request" means a record of a type described in paragraph "b", "c", or "d".

b. "Request for an accounting" means a record authenticated by a debtor requesting that the recipient provide an accounting of the unpaid obligations secured by collateral and reasonably identifying the transaction or relationship that is the subject of the request.

c. "Request regarding a list of collateral" means a record authenticated by a debtor requesting that the recipient approve or correct a list of what the debtor believes to be the collateral securing an obligation and reasonably identifying the transaction or relationship that is the subject of the request.

d. "Request regarding a statement of account" means a record authenticated by a debtor requesting that the recipient approve or correct a statement indicating what the debtor believes to be the aggregate amount of unpaid obligations secured by collateral as of a specified date and reasonably identifying the transaction or relationship that is the subject of the request.

2. DUTY TO RESPOND TO REQUESTS. Subject to subsections 3, 4, 5, and 6, a secured party, other than a buyer of accounts, chattel paper, payment intangibles, or promissory notes or a consignor, shall comply with a request within fourteen days after receipt:

a. in the case of a request for an accounting, by authenticating and sending to the debtor an accounting; and

b. in the case of a request regarding a list of collateral or a request regarding a statement of account, by authenticating and sending to the debtor an approval or correction.

3. REQUEST REGARDING LIST OF COLLATERAL — STATEMENT CONCERNING TYPE OF COLLATERAL. A secured party that claims a security interest in all of a particular type of collateral owned by the debtor may comply with a request regarding a list of collateral by sending to the debtor an authenticated record including a statement to that effect within fourteen days after receipt.

4. REQUEST REGARDING LIST OF COLLATERAL — NO INTEREST CLAIMED. A person that receives a request regarding a list of collateral, claims no interest in the collateral when it receives the request, and claimed an interest in the collateral at an earlier time shall comply with the request within fourteen days after receipt by sending to the debtor an authenticated record:

a. disclaiming any interest in the collateral; and

b. if known to the recipient, providing the name and mailing address of any assignee of or successor to the recipient's interest in the collateral.

5. REQUEST FOR ACCOUNTING OR REGARDING STATEMENT OF ACCOUNT — NO INTEREST IN OBLIGATION CLAIMED. A person that receives a request for an accounting or a request regarding a statement of account, claims no interest in the obligations when it receives the request, and claimed an interest in the obligations at an earlier time shall comply with the request within fourteen days after receipt by sending to the debtor an authenticated record:

a. disclaiming any interest in the obligations; and

b. if known to the recipient, providing the name and mailing address of any assignee of or successor to the recipient's interest in the obligations.

6. CHARGES FOR RESPONSES. A debtor is entitled without charge to one response to a request under this section during any six-month period. The secured party may require payment of a charge not exceeding twenty-five dollars for each additional response.

PART 3
PERFECTION AND PRIORITY
A. LAW GOVERNING PERFECTION AND PRIORITY

Sec. 21. NEW SECTION. 554.9301 LAW GOVERNING PERFECTION AND PRIORITY OF SECURITY INTERESTS.

Except as otherwise provided in sections 554.9303, 554.9304, 554.9305, and 554.9306, the following rules determine the law governing perfection, the effect of perfection or nonperfection, and the priority of a security interest in collateral:

1. Except as otherwise provided in this section, while a debtor is located in a jurisdiction, the local law of that jurisdiction governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in collateral.

2. While collateral is located in a jurisdiction, the local law of that jurisdiction governs perfection, the effect of perfection or nonperfection, and the priority of a possessory security interest in that collateral.

3. Except as otherwise provided in subsection 4, while negotiable documents, goods, instruments, money, or tangible chattel paper is located in a jurisdiction, the local law of that jurisdiction governs:

a. perfection of a security interest in the goods by filing a fixture filing;

b. perfection of a security interest in timber to be cut; and

c. the effect of perfection or nonperfection and the priority of a nonpossessory security interest in the collateral.

4. The local law of the jurisdiction in which the wellhead or minehead is located governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in as-extracted collateral.

Sec. 22. NEW SECTION. 554.9302 LAW GOVERNING PERFECTION AND PRIORITY OF AGRICULTURAL LIENS.

While farm products are located in a jurisdiction, the local law of that jurisdiction governs perfection, the effect of perfection or nonperfection, and the priority of an agricultural lien on the farm products.

Sec. 23. NEW SECTION. 554.9303 LAW GOVERNING PERFECTION AND PRIORITY OF SECURITY INTERESTS IN GOODS COVERED BY A CERTIFICATE OF TITLE.

1. APPLICABILITY OF SECTION. This section applies to goods covered by a certificate of title, even if there is no other relationship between the jurisdiction under whose certificate of title the goods are covered and the goods or the debtor.

2. WHEN GOODS COVERED BY CERTIFICATE OF TITLE. Goods become covered by a certificate of title when a valid application for the certificate of title and the applicable fee are delivered to the appropriate authority. Goods cease to be covered by a certificate of title at the earlier of the time the certificate of title ceases to be effective under the law of the issuing jurisdiction or the time the goods become covered subsequently by a certificate of title issued by another jurisdiction.

3. APPLICABLE LAW. The local law of the jurisdiction under whose certificate of title the goods are covered governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in goods covered by a certificate of title from the time the goods become covered by the certificate of title until the goods cease to be covered by the certificate of title.

Sec. 24. NEW SECTION. 554.9304 LAW GOVERNING PERFECTION AND PRIORITY OF SECURITY INTERESTS IN DEPOSIT ACCOUNTS.

1. LAW OF BANK'S JURISDICTION GOVERNS. The local law of a bank's jurisdiction governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in a deposit account maintained with that bank.

2. BANK'S JURISDICTION. The following rules determine a bank's jurisdiction for purposes of this part:

a. If an agreement between the bank and the debtor governing the deposit account expressly provides that a particular jurisdiction is the bank's jurisdiction for purposes of this part, this Article, or this chapter, that jurisdiction is the bank's jurisdiction.

b. If paragraph "a" does not apply and an agreement between the bank and its customer governing the deposit account expressly provides that the agreement is governed by the law of a particular jurisdiction, that jurisdiction is the bank's jurisdiction.

c. If neither paragraph "a" nor paragraph "b" applies and an agreement between the bank and its customer governing the deposit account expressly provides that the deposit account is maintained at an office in a particular jurisdiction, that jurisdiction is the bank's jurisdiction.

d. If none of the preceding paragraphs applies, the bank's jurisdiction is the jurisdiction in which the office identified in an account statement as the office serving the customer's account is located.

e. If none of the preceding paragraphs applies, the bank's jurisdiction is the jurisdiction in which the chief executive office of the bank is located.

Sec. 25. NEW SECTION. 554.9305 LAW GOVERNING PERFECTION AND PRIORITY OF SECURITY INTERESTS IN INVESTMENT PROPERTY.

1. GOVERNING LAW — GENERAL RULES. Except as otherwise provided in subsection 3, the following rules apply:

a. While a security certificate is located in a jurisdiction, the local law of that jurisdiction governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in the certificated security represented thereby.

b. The local law of the issuer's jurisdiction as specified in section 554.8110, subsection 4, governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in an uncertificated security.

c. The local law of the securities intermediary's jurisdiction as specified in section 554.8110, subsection 5, governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in a security entitlement or securities account.

d. The local law of the commodity intermediary's jurisdiction governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in a commodity contract or commodity account.

2. COMMODITY INTERMEDIARY'S JURISDICTION. The following rules determine a commodity intermediary's jurisdiction for purposes of this part:

a. If an agreement between the commodity intermediary and commodity customer governing the commodity account expressly provides that a particular jurisdiction is the commodity intermediary's jurisdiction for purposes of this part, this Article, or this chapter, that jurisdiction is the commodity intermediary's jurisdiction.

b. If paragraph "a" does not apply and an agreement between the commodity intermediary and commodity customer governing the commodity account expressly provides that the agreement is governed by the law of a particular jurisdiction, that jurisdiction is the commodity intermediary's jurisdiction.

c. If neither paragraph "a" nor paragraph "b" applies and an agreement between the commodity intermediary and commodity customer governing the commodity account expressly provides that the commodity account is maintained at an office in a particular jurisdiction, that jurisdiction is the commodity intermediary's jurisdiction.

d. If none of the preceding paragraphs applies, the commodity intermediary's jurisdiction is the jurisdiction in which the office identified in an account statement as the office serving the commodity customer's account is located.

e. If none of the preceding paragraphs applies, the commodity intermediary's jurisdiction is the jurisdiction in which the chief executive office of the commodity intermediary is located.

3. WHEN PERFECTION GOVERNED BY LAW OF JURISDICTION WHERE DEBTOR LOCATED. The local law of the jurisdiction in which the debtor is located governs:

a. perfection of a security interest in investment property by filing;

b. automatic perfection of a security interest in investment property created by a broker or securities intermediary; and

c. automatic perfection of a security interest in a commodity contract or commodity account created by a commodity intermediary.

Sec. 26. NEW SECTION. 554.9306 LAW GOVERNING PERFECTION AND PRIORITY OF SECURITY INTERESTS IN LETTER-OF-CREDIT RIGHTS.

1. GOVERNING LAW — ISSUER'S OR NOMINATED PERSON'S JURISDICTION. Subject to subsection 3, the local law of the issuer's jurisdiction or a nominated person's jurisdiction governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in a letter-of-credit right if the issuer's jurisdiction or nominated person's jurisdiction is a state.

2. ISSUER'S OR NOMINATED PERSON'S JURISDICTION. For purposes of this part, an issuer's jurisdiction or nominated person's jurisdiction is the jurisdiction whose law governs the liability of the issuer or nominated person with respect to the letter-of-credit right as provided in section 554.5116.

3. WHEN SECTION NOT APPLICABLE. This section does not apply to a security interest that is perfected only under section 554.9308, subsection 4.

Sec. 27. NEW SECTION. 554.9307 LOCATION OF DEBTOR.

1. PLACE OF BUSINESS. In this section, "place of business" means a place where a debtor conducts its affairs.

2. DEBTOR'S LOCATION — GENERAL RULES. Except as otherwise provided in this section, the following rules determine a debtor's location:

a. A debtor who is an individual is located at the individual's principal residence.

b. A debtor that is an organization and has only one place of business is located at its place of business.

c. A debtor that is an organization and has more than one place of business is located at its chief executive office.

3. LIMITATION OF APPLICABILITY OF SUBSECTION 2. Subsection 2 applies only if a debtor's residence, place of business, or chief executive office, as applicable, is located in a jurisdiction whose law generally requires information concerning the existence of a nonpossessory security interest to be made generally available in a filing, recording, or registration system as a condition or result of the security interest's obtaining priority over the rights of a lien creditor with respect to the collateral. If subsection 2 does not apply, the debtor is located in the District of Columbia.

4. CONTINUATION OF LOCATION — CESSATION OF EXISTENCE, ETC. A person that ceases to exist, have a residence, or have a place of business continues to be located in the jurisdiction specified by subsections 2 and 3.

5. LOCATION OF REGISTERED ORGANIZATION ORGANIZED UNDER STATE LAW. A registered organization that is organized under the law of a state is located in that state.

6. LOCATION OF REGISTERED ORGANIZATION ORGANIZED UNDER FEDERAL LAW — BANK BRANCHES AND AGENCIES. Except as otherwise provided in subsection 9, a registered organization that is organized under the law of the United States and a branch or agency of a bank that is not organized under the law of the United States or a state are located:

a. in the state that the law of the United States designates, if the law designates a state of location;

b. in the state that the registered organization, branch, or agency designates, if the law of the United States authorizes the registered organization, branch, or agency to designate its state of location; or

c. in the District of Columbia, if neither paragraph "a" nor paragraph "b" applies.

7. CONTINUATION OF LOCATION — CHANGE IN STATUS OF REGISTERED ORGANIZATION. A registered organization continues to be located in the jurisdiction specified by subsection 5 or 6 notwithstanding:

a. the suspension, revocation, forfeiture, or lapse of the registered organization's status as such in its jurisdiction of organization; or

b. the dissolution, winding up, or cancellation of the existence of the registered organization.

8. LOCATION OF UNITED STATES. The United States is located in the District of Columbia.

9. LOCATION OF FOREIGN BANK BRANCH OR AGENCY IF LICENSED IN ONLY ONE STATE. A branch or agency of a bank that is not organized under the law of the United States or a state is located in the state in which the branch or agency is licensed, if all branches and agencies of the bank are licensed in only one state.

10. LOCATION OF FOREIGN AIR CARRIER. A foreign air carrier under the Federal Aviation Act of 1958, as amended, is located at the designated office of the agent upon which service of process may be made on behalf of the carrier.

11. SECTION APPLIES ONLY TO THIS PART. This section applies only for purposes of this part.

B. PERFECTION

Sec. 28. NEW SECTION. 554.9308 WHEN SECURITY INTEREST OR AGRICULTURAL LIEN IS PERFECTED — CONTINUITY OF PERFECTION.

1. PERFECTION OF SECURITY INTEREST. Except as otherwise provided in this section and section 554.9309, a security interest is perfected if it has attached and all of the applicable requirements for perfection in sections 554.9310, 554.9311, 554.9312, 554.9313, 554.9314, 554.9315, and 554.9316 have been satisfied. A security interest is perfected when it attaches if the applicable requirements are satisfied before the security interest attaches.

2. PERFECTION OF AGRICULTURAL LIEN. An agricultural lien is perfected if it has become effective and all of the applicable requirements for perfection in section 554.9310 have been satisfied. An agricultural lien is perfected when it becomes effective if the applicable requirements are satisfied before the agricultural lien becomes effective.

3. CONTINUOUS PERFECTION — PERFECTION BY DIFFERENT METHODS. A security interest or agricultural lien is perfected continuously if it is originally perfected by one method under this Article and is later perfected by another method under this Article, without an intermediate period when it was unperfected.

4. SUPPORTING OBLIGATION. Perfection of a security interest in collateral also perfects a security interest in a supporting obligation for the collateral.

5. LIEN SECURING RIGHT TO PAYMENT. Perfection of a security interest in a right to payment or performance also perfects a security interest in a security interest, mortgage, or other lien on personal or real property securing the right.

6. SECURITY ENTITLEMENT CARRIED IN SECURITIES ACCOUNT. Perfection of a security interest in a securities account also perfects a security interest in the security entitlements carried in the securities account.

7. COMMODITY CONTRACT CARRIED IN COMMODITY ACCOUNT. Perfection of a security interest in a commodity account also perfects a security interest in the commodity contracts carried in the commodity account.

Sec. 29. NEW SECTION. 554.9309 SECURITY INTEREST PERFECTED UPON ATTACHMENT.

The following security interests are perfected when they attach:

1. a purchase-money security interest in consumer goods, except as otherwise provided in section 554.9311, subsection 2, with respect to consumer goods that are subject to a statute or treaty described in section 554.9311, subsection 1;

2. an assignment of accounts or payment intangibles which does not by itself or in conjunction with other assignments to the same assignee transfer a significant part of the assignor's outstanding accounts or payment intangibles;

3. a sale of a payment intangible;

4. a sale of a promissory note;
5. a security interest created by the assignment of a health-care-insurance receivable to the provider of the health-care goods or services;
6. a security interest arising under section 554.2401, 554.2505, 554.2711, subsection 3, or section 554.13508, subsection 5, until the debtor obtains possession of the collateral;
7. a security interest of a collecting bank arising under section 554.4210;
8. a security interest of an issuer or nominated person arising under section 554.5118;
9. a security interest arising in the delivery of a financial asset under section 554.9206, subsection 3;
10. a security interest in investment property created by a broker or securities intermediary;
11. a security interest in a commodity contract or a commodity account created by a commodity intermediary;
12. an assignment for the benefit of all creditors of the transferor and subsequent transfers by the assignee thereunder; and
13. a security interest created by an assignment of a beneficial interest in a decedent's estate.

Sec. 30. NEW SECTION. 554.9310 WHEN FILING REQUIRED TO PERFECT SECURITY INTEREST OR AGRICULTURAL LIEN — SECURITY INTERESTS AND AGRICULTURAL LIENS TO WHICH FILING PROVISIONS DO NOT APPLY.

1. GENERAL RULE — PERFECTION BY FILING. Except as otherwise provided in subsection 2 and section 554.9312, subsection 2, a financing statement must be filed to perfect all security interests and agricultural liens.

2. EXCEPTIONS — FILING NOT NECESSARY. The filing of a financing statement is not necessary to perfect a security interest:

a. that is perfected under section 554.9308, subsection 4, 5, 6, or 7;
b. that is perfected under section 554.9309 when it attaches;
c. in property subject to a statute, regulation, or treaty described in section 554.9311, subsection 1;
d. in goods in possession of a bailee which is perfected under section 554.9312, subsection 4, paragraph "a" or "b";
e. in certificated securities, documents, goods, or instruments which is perfected without filing or possession under section 554.9312, subsection 5, 6, or 7;
f. in collateral in the secured party's possession under section 554.9313;
g. in a certificated security which is perfected by delivery of the security certificate to the secured party under section 554.9313;
h. in deposit accounts, electronic chattel paper, investment property, or letter-of-credit rights which is perfected by control under section 554.9314;
i. in proceeds which is perfected under section 554.9315; or
j. that is perfected under section 554.9316.

3. ASSIGNMENT OF PERFECTED SECURITY INTEREST. If a secured party assigns a perfected security interest or agricultural lien, a filing under this Article is not required to continue the perfected status of the security interest against creditors of and transferees from the original debtor.

Sec. 31. NEW SECTION. 554.9311 PERFECTION OF SECURITY INTERESTS IN PROPERTY SUBJECT TO CERTAIN STATUTES, REGULATIONS, AND TREATIES.

1. SECURITY INTEREST SUBJECT TO OTHER LAW. Except as otherwise provided in subsection 4, the filing of a financing statement is not necessary or effective to perfect a security interest in property subject to:

a. a statute, regulation, or treaty of the United States whose requirements for a security interest's obtaining priority over the rights of a lien creditor with respect to the property preempt section 554.9310, subsection 1;
b. any certificate-of-title statute, including as provided in chapter 321, covering automobiles, trailers, mobile homes, boats, farm tractors, or the like, which provides for a security interest to be indicated on the certificate as a condition or result of perfection; or

c. a certificate-of-title statute of another jurisdiction which provides for a security interest to be indicated on the certificate as a condition or result of the security interest's obtaining priority over the rights of a lien creditor with respect to the property.

2. COMPLIANCE WITH OTHER LAW. Compliance with the requirements of a statute, regulation, or treaty described in subsection 1 for obtaining priority over the rights of a lien creditor is equivalent to the filing of a financing statement under this Article. Except as otherwise provided in subsection 4 and sections 554.9313 and 554.9316, subsections 4 and 5, for goods covered by a certificate of title, a security interest in property subject to a statute, regulation, or treaty described in subsection 1 may be perfected only by compliance with those requirements, and a security interest so perfected remains perfected notwithstanding a change in the use or transfer of possession of the collateral.

3. DURATION AND RENEWAL OF PERFECTION. Except as otherwise provided in subsection 4 and section 554.9316, subsections 4 and 5, duration and renewal of perfection of a security interest perfected by compliance with the requirements prescribed by a statute, regulation, or treaty described in subsection 1 are governed by the statute, regulation, or treaty. In other respects, the security interest is subject to this Article.

4. INAPPLICABILITY TO CERTAIN INVENTORY. During any period in which collateral subject to a statute specified in subsection 1, paragraph "b" is inventory held for sale or lease by a person or leased by that person as lessor and that person is in the business of selling goods of that kind, this section does not apply to a security interest in that collateral created by that person.

Sec. 32. NEW SECTION. 554.9312 PERFECTION OF SECURITY INTERESTS IN CHATTEL PAPER, DEPOSIT ACCOUNTS, DOCUMENTS, GOODS COVERED BY DOCUMENTS, INSTRUMENTS, INVESTMENT PROPERTY, LETTER-OF-CREDIT RIGHTS, AND MONEY — PERFECTION BY PERMISSIVE FILING — TEMPORARY PERFECTION WITHOUT FILING OR TRANSFER OF POSSESSION.

1. PERFECTION BY FILING PERMITTED. A security interest in chattel paper, negotiable documents, instruments, or investment property may be perfected by filing.

2. CONTROL OR POSSESSION OF CERTAIN COLLATERAL. Except as otherwise provided in section 554.9315, subsections 3 and 4, for proceeds:

a. a security interest in a deposit account may be perfected only by control under section 554.9314;

b. and except as otherwise provided in section 554.9308, subsection 4, a security interest in a letter-of-credit right may be perfected only by control under section 554.9314; and

c. a security interest in money may be perfected only by the secured party's taking possession under section 554.9313.

3. GOODS COVERED BY NEGOTIABLE DOCUMENT. While goods are in the possession of a bailee that has issued a negotiable document covering the goods:

a. a security interest in the goods may be perfected by perfecting a security interest in the document; and

b. a security interest perfected in the document has priority over any security interest that becomes perfected in the goods by another method during that time.

4. GOODS COVERED BY NONNEGOTIABLE DOCUMENT. While goods are in the possession of a bailee that has issued a nonnegotiable document covering the goods, a security interest in the goods may be perfected by:

a. issuance of a document in the name of the secured party;

b. the bailee's receipt of notification of the secured party's interest; or

c. filing as to the goods.

5. TEMPORARY PERFECTION — NEW VALUE. A security interest in certificated securities, negotiable documents, or instruments is perfected without filing or the taking of possession 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.

6. TEMPORARY PERFECTION — GOODS OR DOCUMENTS MADE AVAILABLE TO DEBTOR. A perfected security interest in a negotiable document or goods in possession of a bailee, other than one that has issued a negotiable document for the goods, remains perfected for twenty days without filing if the secured party makes available to the debtor the goods or documents representing the goods for the purpose of:

a. ultimate sale or exchange; or

b. loading, unloading, storing, shipping, transshipping, manufacturing, processing, or otherwise dealing with them in a manner preliminary to their sale or exchange.

7. TEMPORARY PERFECTION — DELIVERY OF SECURITY CERTIFICATE OR INSTRUMENT TO DEBTOR. A perfected security interest in a certificated security or instrument remains perfected for twenty days without filing if the secured party delivers the security certificate or instrument to the debtor for the purpose of:

a. ultimate sale or exchange; or

b. presentation, collection, enforcement, renewal, or registration of transfer.

8. EXPIRATION OF TEMPORARY PERFECTION. After the twenty-day period specified in subsection 5, 6, or 7 expires, perfection depends upon compliance with this Article.

Sec. 33. NEW SECTION. 554.9313 WHEN POSSESSION BY OR DELIVERY TO SECURED PARTY PERFECTS SECURITY INTEREST WITHOUT FILING.

1. PERFECTION BY POSSESSION OR DELIVERY. Except as otherwise provided in subsection 2, a secured party may perfect a security interest in 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.

2. GOODS COVERED BY CERTIFICATE OF TITLE. With respect to goods covered by a certificate of title issued by this state, a secured party may perfect a security interest in the goods by taking possession of the goods only in the circumstances described in section 554.9316, subsection 5.

3. COLLATERAL IN POSSESSION OF PERSON OTHER THAN DEBTOR. With respect to collateral other than certificated securities and goods covered by a document, a secured party takes possession of collateral in the possession of a person other than the debtor, the secured party, or a lessee of the collateral from the debtor in the ordinary course of the debtor's business, when:

a. the person in possession authenticates a record acknowledging that it holds possession of the collateral for the secured party's benefit; or

b. the person takes possession of the collateral after having authenticated a record acknowledging that it will hold possession of collateral for the secured party's benefit.

4. TIME OF PERFECTION BY POSSESSION — CONTINUATION OF PERFECTION. If perfection of a security interest depends upon possession of the collateral by a secured party, perfection occurs no earlier than the time the secured party takes possession and continues only while the secured party retains possession.

5. TIME OF PERFECTION BY DELIVERY — CONTINUATION OF PERFECTION. A security interest in a certificated security in registered form is perfected by delivery when delivery of the certificated security occurs under section 554.8301 and remains perfected by delivery until the debtor obtains possession of the security certificate.

6. ACKNOWLEDGMENT NOT REQUIRED. A person in possession of collateral is not required to acknowledge that it holds possession for a secured party's benefit.

7. EFFECTIVENESS OF ACKNOWLEDGMENT — NO DUTIES OR CONFIRMATION. If a person acknowledges that it holds possession for the secured party's benefit:

a. the acknowledgment is effective under subsection 3 or section 554.8301, subsection 1, even if the acknowledgment violates the rights of a debtor; and

b. unless the person otherwise agrees or law other than this Article otherwise provides, the person does not owe any duty to the secured party and is not required to confirm the acknowledgment to another person.

8. SECURED PARTY'S DELIVERY TO PERSON OTHER THAN DEBTOR. A secured party having possession of collateral does not relinquish possession by delivering the collateral to a person other than the debtor or a lessee of the collateral from the debtor in the ordinary course of the debtor's business if the person was instructed before the delivery or is instructed contemporaneously with the delivery:

a. to hold possession of the collateral for the secured party's benefit; or

b. to redeliver the collateral to the secured party.

9. EFFECT OF DELIVERY UNDER SUBSECTION 8 — NO DUTIES OR CONFIRMATION. A secured party does not relinquish possession, even if a delivery under subsection 8 violates the rights of a debtor. A person to which collateral is delivered under subsection 8 does not owe any duty to the secured party and is not required to confirm the delivery to another person unless the person otherwise agrees or law other than this Article otherwise provides.

Sec. 34. NEW SECTION. 554.9314 PERFECTION BY CONTROL.

1. PERFECTION BY CONTROL. A security interest in investment property, deposit accounts, letter-of-credit rights, or electronic chattel paper may be perfected by control of the collateral under section 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 is perfected by control under section 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.

3. INVESTMENT PROPERTY — TIME OF PERFECTION BY CONTROL — CONTINUATION OF PERFECTION. A security interest in investment property is perfected by control under section 554.9106 from the time the secured party obtains control and remains perfected by control until:

a. the secured party does not have control; and

b. one of the following occurs:

(1) if the collateral is a certificated security, the debtor has or acquires possession of the security certificate;

(2) if the collateral is an uncertificated security, the issuer has registered or registers the debtor as the registered owner; or

(3) if the collateral is a security entitlement, the debtor is or becomes the entitlement holder.

Sec. 35. NEW SECTION. 554.9315 SECURED PARTY'S RIGHTS ON DISPOSITION OF COLLATERAL AND IN PROCEEDS.

1. DISPOSITION OF COLLATERAL — CONTINUATION OF SECURITY INTEREST OR AGRICULTURAL LIEN — PROCEEDS. Except as otherwise provided in this Article and in section 554.2403, subsection 2:

a. a security interest or agricultural lien continues in collateral notwithstanding sale, lease, license, exchange, or other disposition thereof unless the secured party authorized the disposition free of the security interest or agricultural lien; and

b. a security interest attaches to any identifiable proceeds of collateral.

2. WHEN COMMINGLED PROCEEDS IDENTIFIABLE. Proceeds that are commingled with other property are identifiable proceeds:

a. if the proceeds are goods, to the extent provided by section 554.9336; and

b. if the proceeds are not goods, to the extent that the secured party identifies the proceeds by a method of tracing, including application of equitable principles, that is permitted under law other than this Article with respect to commingled property of the type involved.

3. PERFECTION OF SECURITY INTEREST IN PROCEEDS. A security interest in proceeds is a perfected security interest if the security interest in the original collateral was perfected.

4. CONTINUATION OF PERFECTION. A perfected security interest in proceeds becomes unperfected on the twenty-first day after the security interest attaches to the proceeds unless:

a. the following conditions are satisfied:

(1) a filed financing statement covers the original collateral;

(2) the proceeds are collateral in which a security interest may be perfected by filing in the office in which the financing statement has been filed; and

(3) the proceeds are not acquired with cash proceeds;

b. the proceeds are identifiable cash proceeds; or

c. the security interest in the proceeds is perfected other than under subsection 3 when the security interest attaches to the proceeds or within twenty days thereafter.

5. WHEN PERFECTED SECURITY INTEREST IN PROCEEDS BECOMES UNPERFECTED. If a filed financing statement covers the original collateral, a security interest in proceeds which remains perfected under subsection 4, paragraph "a", becomes unperfected at the later of:

a. when the effectiveness of the filed financing statement lapses under section 554.9515 or is terminated under section 554.9513; or

b. the twenty-first day after the security interest attaches to the proceeds.

Sec. 36. NEW SECTION. 554.9316 CONTINUED PERFECTION OF SECURITY INTEREST FOLLOWING CHANGE IN GOVERNING LAW.

1. GENERAL RULE — EFFECT ON PERFECTION OF CHANGE IN GOVERNING LAW. A security interest perfected pursuant to the law of the jurisdiction designated in section 554.9301, subsection 1, or section 554.9305, subsection 3, remains perfected until the earliest of:

a. the time perfection would have ceased under the law of that jurisdiction;

b. the expiration of four months after a change of the debtor's location to another jurisdiction; or

c. the expiration of one year after a transfer of collateral to a person that thereby becomes a debtor and is located in another jurisdiction.

2. SECURITY INTEREST PERFECTED OR UNPERFECTED UNDER LAW OF NEW JURISDICTION. If a security interest described in subsection 1 becomes perfected under the law of the other jurisdiction before the earliest time or event described in that subsection, it remains perfected thereafter. If the security interest does not become perfected under the law of the other jurisdiction before the earliest time or event, it becomes unperfected and is deemed never to have been perfected as against a purchaser of the collateral for value.

3. POSSESSORY SECURITY INTEREST IN COLLATERAL MOVED TO NEW JURISDICTION. A possessory security interest in collateral, other than goods covered by a certificate of title and as-extracted collateral consisting of goods, remains continuously perfected if:

a. the collateral is located in one jurisdiction and subject to a security interest perfected under the law of that jurisdiction;

b. thereafter the collateral is brought into another jurisdiction; and

c. upon entry into the other jurisdiction, the security interest is perfected under the law of the other jurisdiction.

4. GOODS COVERED BY CERTIFICATE OF TITLE FROM THIS STATE. Except as otherwise provided in subsection 5, a security interest in goods covered by a certificate of title which is perfected by any method under the law of another jurisdiction when the goods become covered by a certificate of title from this state remains perfected until the security interest would have become unperfected under the law of the other jurisdiction had the goods not become so covered.

5. WHEN SUBSECTION 4 SECURITY INTEREST BECOMES UNPERFECTED AGAINST PURCHASERS. A security interest described in subsection 4 becomes unperfected as against a purchaser of the goods for value and is deemed never to have been perfected as against a purchaser of the goods for value if the applicable requirements for perfection under section 554.9311, subsection 2, or section 554.9313 are not satisfied before the earlier of:

a. the time the security interest would have become unperfected under the law of the other jurisdiction had the goods not become covered by a certificate of title from this state; or

b. the expiration of four months after the goods had become so covered.

6. CHANGE IN JURISDICTION OF BANK, ISSUER, NOMINATED PERSON, SECURITIES INTERMEDIARY, OR COMMODITY INTERMEDIARY. A security interest in deposit accounts, letter-of-credit rights, or investment property which is perfected under the law of the bank's jurisdiction, the issuer's jurisdiction, a nominated person's jurisdiction, the securities intermediary's jurisdiction, or the commodity intermediary's jurisdiction, as applicable, remains perfected until the earlier of:

a. the time the security interest would have become unperfected under the law of that jurisdiction; or

b. the expiration of four months after a change of the applicable jurisdiction to another jurisdiction.

7. SUBSECTION 6 SECURITY INTEREST PERFECTED OR UNPERFECTED UNDER LAW OF NEW JURISDICTION. If a security interest described in subsection 6 becomes perfected under the law of the other jurisdiction before the earlier of the time or the end of the period described in that subsection, it remains perfected thereafter. If the security interest does not become perfected under the law of the other jurisdiction before the earlier of that time or the end of that period, it becomes unperfected and is deemed never to have been perfected as against a purchaser of the collateral for value.

C. PRIORITY

Sec. 37. NEW SECTION. 554.9317 INTERESTS THAT TAKE PRIORITY OVER OR TAKE FREE OF SECURITY INTEREST OR AGRICULTURAL LIEN.

1. CONFLICTING SECURITY INTERESTS AND RIGHTS OF LIEN CREDITORS. A security interest or agricultural lien is subordinate to the rights of:

a. a person entitled to priority under section 554.9322; and

b. except as otherwise provided in subsection 5, a person that becomes a lien creditor before the earlier of the time:

(1) The security interest or agricultural lien is perfected; or

(2) One of the conditions specified in section 554.9203, subsection 2, paragraph "c" is met and a financing statement covering the collateral is filed.

2. BUYERS THAT RECEIVE DELIVERY. Except as otherwise provided in subsection 5, a buyer, other than a secured party, of tangible chattel paper, 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.

3. LESSEES THAT RECEIVE DELIVERY. Except as otherwise provided in subsection 5, a lessee of goods takes free of a security interest or agricultural lien if the lessee 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, 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.

5. PURCHASE-MONEY SECURITY INTEREST. Except as otherwise provided in sections 554.9320 and 554.9321, if a person files a financing statement with respect to a purchase-money security interest before or within twenty days after the debtor receives delivery of the collateral, the security interest takes priority over the rights of a buyer, lessee, or lien creditor which arise between the time the security interest attaches and the time of filing.

Sec. 38. NEW SECTION. 554.9318 NO INTEREST RETAINED IN RIGHT TO PAYMENT THAT IS SOLD — RIGHTS AND TITLE OF SELLER OF ACCOUNT OR CHATTEL PAPER WITH RESPECT TO CREDITORS AND PURCHASERS.

1. SELLER RETAINS NO INTEREST. A debtor that has sold an account, chattel paper, payment intangible, or promissory note does not retain a legal or equitable interest in the collateral sold.

2. DEEMED RIGHTS OF DEBTOR IF BUYER'S SECURITY INTEREST UNPERFECTED. For purposes of determining the rights of creditors of, and purchasers for value of an account or chattel paper from, a debtor that has sold an account or chattel paper, while the buyer's security interest is unperfected, the debtor is deemed to have rights and title to the account or chattel paper identical to those the debtor sold.

Sec. 39. NEW SECTION. 554.9319 RIGHTS AND TITLE OF CONSIGNEE WITH RESPECT TO CREDITORS AND PURCHASERS.

1. CONSIGNEE HAS CONSIGNOR'S RIGHTS. Except as otherwise provided in subsection 2, for purposes of determining the rights of creditors of, and purchasers for value of goods from, a consignee, while the goods are in the possession of the consignee, the consignee is deemed to have rights and title to the goods identical to those the consignor had or had power to transfer.

2. APPLICABILITY OF OTHER LAW. For purposes of determining the rights of a creditor of a consignee, law other than this Article determines the rights and title of a consignee while goods are in the consignee's possession if, under this part, a perfected security interest held by the consignor would have priority over the rights of the creditor.

Sec. 40. NEW SECTION. 554.9320 BUYER OF GOODS.

1. BUYER IN ORDINARY COURSE OF BUSINESS. Except as otherwise provided in subsection 5, a buyer in ordinary course of business, other than a person buying farm products from a person engaged in farming operations, takes free of a security interest created by the buyer's seller, even if the security interest is perfected and the buyer knows of its existence.

2. BUYER OF CONSUMER GOODS. Except as otherwise provided in subsection 5, a buyer of goods from a person who used or bought the goods for use primarily for personal, family, or household purposes takes free of a security interest, even if perfected, if the buyer buys:

a. without knowledge of the security interest;

b. for value;

c. primarily for the buyer's personal, family, or household purposes; and

d. before the filing of a financing statement covering the goods.

3. EFFECTIVENESS OF FILING FOR SUBSECTION 2. To the extent that it affects the priority of a security interest over a buyer of goods under subsection 2, the period of effectiveness of a filing made in the jurisdiction in which the seller is located is governed by section 554.9316, subsections 1 and 2.

4. BUYER IN ORDINARY COURSE OF BUSINESS AT WELLHEAD OR MINEHEAD. A buyer in ordinary course of business buying oil, gas, or other minerals at the wellhead or minehead or after extraction takes free of an interest arising out of an encumbrance.

5. POSSESSORY SECURITY INTEREST NOT AFFECTED. Subsections 1 and 2 do not affect a security interest in goods in the possession of the secured party under section 554.9313.

Sec. 41. NEW SECTION. 554.9321 LICENSEE OF GENERAL INTANGIBLE AND LESSEE OF GOODS IN ORDINARY COURSE OF BUSINESS.

1. LICENSEE IN ORDINARY COURSE OF BUSINESS. In this section, "licensee in ordinary course of business" means a person that becomes a licensee of a general intangible in good faith, without knowledge that the license violates the rights of another person in the general intangible, and in the ordinary course from a person in the business of licensing general intangibles of that kind. A person becomes a licensee in the ordinary course if the

license to the person comports with the usual or customary practices in the kind of business in which the licensor is engaged or with the licensor's own usual or customary practices.

2. RIGHTS OF LICENSEE IN ORDINARY COURSE OF BUSINESS. A licensee in ordinary course of business takes its rights under a nonexclusive license free of a security interest in the general intangible created by the licensor, even if the security interest is perfected and the licensee knows of its existence.

3. RIGHTS OF LESSEE IN ORDINARY COURSE OF BUSINESS. A lessee in ordinary course of business takes its leasehold interest free of a security interest in the goods created by the lessor, even if the security interest is perfected and the lessee knows of its existence.

Sec. 42. NEW SECTION. 554.9322 PRIORITIES AMONG CONFLICTING SECURITY INTERESTS IN AND AGRICULTURAL LIENS ON SAME COLLATERAL.

1. GENERAL PRIORITY RULES. Except as otherwise provided in this section, priority among conflicting security interests and agricultural liens in the same collateral is determined according to the following rules:

a. Conflicting perfected security interests and agricultural liens rank according to priority in time of filing or perfection. Priority dates from the earlier of the time a filing covering the collateral is first made or the security interest or agricultural lien is first perfected, if there is no period thereafter when there is neither filing nor perfection.

b. A perfected security interest or agricultural lien has priority over a conflicting unperfected security interest or agricultural lien.

c. The first security interest or agricultural lien to attach or become effective has priority if conflicting security interests and agricultural liens are unperfected.

2. TIME OF PERFECTION — PROCEEDS AND SUPPORTING OBLIGATIONS. For the purposes of subsection 1, paragraph "a":

a. the time of filing or perfection as to a security interest in collateral is also the time of filing or perfection as to a security interest in proceeds; and

b. the time of filing or perfection as to a security interest in collateral supported by a supporting obligation is also the time of filing or perfection as to a security interest in the supporting obligation.

3. SPECIAL PRIORITY RULES — PROCEEDS AND SUPPORTING OBLIGATIONS. Except as otherwise provided in subsection 6, a security interest in collateral which qualifies for priority over a conflicting security interest under section 554.9327, 554.9328, 554.9329, 554.9330, or 554.9331 also has priority over a conflicting security interest in:

a. any supporting obligation for the collateral; and

b. proceeds of the collateral if:

(1) the security interest in proceeds is perfected;

(2) the proceeds are cash proceeds or of the same type as the collateral; and

(3) in the case of proceeds that are proceeds of proceeds, all intervening proceeds are cash proceeds, proceeds of the same type as the collateral, or an account relating to the collateral.

4. FIRST-TO-FILE PRIORITY RULE FOR CERTAIN COLLATERAL. Subject to subsection 5 and except as otherwise provided in subsection 6, if a security interest in chattel paper, deposit accounts, negotiable documents, instruments, investment property, or letter-of-credit rights is perfected by a method other than filing, conflicting perfected security interests in proceeds of the collateral rank according to priority in time of filing.

5. APPLICABILITY OF SUBSECTION 4. Subsection 4 applies only if the proceeds of the collateral are not cash proceeds, chattel paper, negotiable documents, instruments, investment property, or letter-of-credit rights.

6. LIMITATIONS ON SUBSECTIONS 1 THROUGH 5. Subsections 1 through 5 are subject to:

a. subsection 7 and the other provisions of this part;

b. section 554.4210 with respect to a security interest of a collecting bank;

c. section 554.5118 with respect to a security interest of an issuer or nominated person; and

d. section 554.9110 with respect to a security interest arising under Article 2 or 13.

7. PRIORITY UNDER AGRICULTURAL LIEN STATUTE. A perfected agricultural lien on collateral has priority over a conflicting security interest in or agricultural lien on the same collateral if the statute creating the agricultural lien so provides.

Sec. 43. NEW SECTION. 554.9323 FUTURE ADVANCES.

1. WHEN PRIORITY BASED ON TIME OF ADVANCE. Except as otherwise provided in subsection 3, for purposes of determining the priority of a perfected security interest under section 554.9322, subsection 1, paragraph "a", perfection of the security interest dates from the time an advance is made to the extent that the security interest secures an advance that:

a. is made while the security interest is perfected only:

(1) under section 554.9309 when it attaches; or

(2) temporarily under section 554.9312, subsection 5, 6, or 7; and

b. is not made pursuant to a commitment entered into before or while the security interest is perfected by a method other than under section 554.9309 or 554.9312, subsection 5, 6, or 7.

2. LIEN CREDITOR. Except as otherwise provided in subsection 3, a security interest is subordinate to the rights of a person that becomes a lien creditor to the extent that the security interest secures an advance made more than forty-five days after the person becomes a lien creditor unless the advance is made:

a. without knowledge of the lien; or

b. pursuant to a commitment entered into without knowledge of the lien.

3. BUYER OF RECEIVABLES. Subsections 1 and 2 do not apply to a security interest held by a secured party that is a buyer of accounts, chattel paper, payment intangibles, or promissory notes or a consignor.

4. BUYER OF GOODS. Except as otherwise provided in subsection 5, a buyer of goods other than a buyer in ordinary course of business takes free of a security interest to the extent that it secures advances made after the earlier of:

a. the time the secured party acquires knowledge of the buyer's purchase; or

b. forty-five days after the purchase.

5. ADVANCES MADE PURSUANT TO COMMITMENT — PRIORITY OF BUYER OF GOODS. Subsection 4 does not apply if the advance is made pursuant to a commitment entered into without knowledge of the buyer's purchase and before the expiration of the forty-five-day period.

6. LESSEE OF GOODS. Except as otherwise provided in subsection 7, a lessee of goods, other than a lessee in ordinary course of business, takes the leasehold interest free of a security interest to the extent that it secures advances made after the earlier of:

a. the time the secured party acquires knowledge of the lease; or

b. forty-five days after the lease contract becomes enforceable.

7. ADVANCES MADE PURSUANT TO COMMITMENT — PRIORITY OF LESSEE OF GOODS. Subsection 6 does not apply if the advance is made pursuant to a commitment entered into without knowledge of the lease and before the expiration of the forty-five-day period.

Sec. 44. NEW SECTION. 554.9324 PRIORITY OF PURCHASE-MONEY SECURITY INTERESTS.

1. GENERAL RULE — PURCHASE-MONEY PRIORITY. Except as otherwise provided in subsection 7, a perfected purchase-money security interest in goods other than inventory or livestock has priority over a conflicting security interest in the same goods, and, except as otherwise provided in section 554.9327, a perfected security interest in its identifiable proceeds also has priority, if the purchase-money security interest is perfected when the debtor receives possession of the collateral or within twenty days thereafter.

2. INVENTORY PURCHASE-MONEY PRIORITY. Subject to subsection 3 and except as otherwise provided in subsection 7, a perfected purchase-money security interest in

inventory has priority over a conflicting security interest in the same inventory, has priority over a conflicting security interest in chattel paper or an instrument constituting proceeds of the inventory and in proceeds of the chattel paper, if so provided in section 554.9330, and, except as otherwise provided in section 554.9327, also has priority in identifiable cash proceeds of the inventory to the extent the identifiable cash proceeds are received on or before the delivery of the inventory to a buyer, if:

a. the purchase-money security interest is perfected when the debtor receives possession of the inventory;

b. the purchase-money secured party sends an authenticated notification to the holder of the conflicting security interest;

c. the holder of the conflicting security interest receives the notification within five years before the debtor receives possession of the inventory; and

d. the notification states that the person sending the notification has or expects to acquire a purchase-money security interest in inventory of the debtor and describes the inventory.

3. HOLDERS OF CONFLICTING INVENTORY SECURITY INTERESTS TO BE NOTIFIED. Subsection 2, paragraphs "b" through "d", apply only if the holder of the conflicting security interest had filed a financing statement covering the same types of inventory:

a. if the purchase-money security interest is perfected by filing, before the date of the filing; or

b. if the purchase-money security interest is temporarily perfected without filing or possession under section 554.9312, subsection 6, before the beginning of the twenty-day period thereunder.

4. LIVESTOCK PURCHASE-MONEY PRIORITY. Subject to subsection 5 and except as otherwise provided in subsection 7, a perfected purchase-money security interest in livestock that are farm products has priority over a conflicting security interest in the same livestock, and, except as otherwise provided in section 554.9327, a perfected security interest in their identifiable proceeds and identifiable products in their unmanufactured states also has priority, if:

a. the purchase-money security interest is perfected when the debtor receives possession of the livestock;

b. the purchase-money secured party sends an authenticated notification to the holder of the conflicting security interest;

c. the holder of the conflicting security interest receives the notification within six months before the debtor receives possession of the livestock; and

d. the notification states that the person sending the notification has or expects to acquire a purchase-money security interest in livestock of the debtor and describes the livestock.

5. HOLDERS OF CONFLICTING LIVESTOCK SECURITY INTERESTS TO BE NOTIFIED. Subsection 4, paragraphs "b" through "d", apply only if the holder of the conflicting security interest had filed a financing statement covering the same types of livestock:

a. if the purchase-money security interest is perfected by filing, before the date of the filing; or

b. if the purchase-money security interest is temporarily perfected without filing or possession under section 554.9312, subsection 6, before the beginning of the twenty-day period thereunder.

6. SOFTWARE PURCHASE-MONEY PRIORITY. Except as otherwise provided in subsection 7, a perfected purchase-money security interest in software has priority over a conflicting security interest in the same collateral, and, except as otherwise provided in section 554.9327, a perfected security interest in its identifiable proceeds also has priority, to the extent that the purchase-money security interest in the goods in which the software was acquired for use has priority in the goods and proceeds of the goods under this section.

7. CONFLICTING PURCHASE-MONEY SECURITY INTERESTS. If more than one security interest qualifies for priority in the same collateral under subsection 1, 2, 4, or 6:

a. a security interest securing an obligation incurred as all or part of the price of the collateral has priority over a security interest securing an obligation incurred for value given to enable the debtor to acquire rights in or the use of collateral; and

b. in all other cases, section 554.9322, subsection 1, applies to the qualifying security interests.

Sec. 45. NEW SECTION. 554.9325 PRIORITY OF SECURITY INTERESTS IN TRANSFERRED COLLATERAL.

1. SUBORDINATION OF SECURITY INTEREST IN TRANSFERRED COLLATERAL. Except as otherwise provided in subsection 2, a security interest created by a debtor is subordinate to a security interest in the same collateral created by another person if:

a. the debtor acquired the collateral subject to the security interest created by the other person;

b. the security interest created by the other person was perfected when the debtor acquired the collateral; and

c. there is no period thereafter when the security interest is unperfected.

2. LIMITATION OF SUBSECTION 1 SUBORDINATION. Subsection 1 subordinates a security interest only if the security interest:

a. otherwise would have priority solely under section 554.9322, subsection 1, or section 554.9324; or

b. arose solely under section 554.2711, subsection 3, or section 554.13508, subsection 5.

Sec. 46. NEW SECTION. 554.9326 PRIORITY OF SECURITY INTERESTS CREATED BY NEW DEBTOR.

1. SUBORDINATION OF SECURITY INTEREST CREATED BY NEW DEBTOR. Subject to subsection 2, a security interest created by a new debtor which is perfected by a filed financing statement that is effective solely under section 554.9508 in collateral in which a new debtor has or acquires rights is subordinate to a security interest in the same collateral which is perfected other than by a filed financing statement that is effective solely under section 554.9508.

2. PRIORITY UNDER OTHER PROVISIONS — MULTIPLE ORIGINAL DEBTORS. The other provisions of this part determine the priority among conflicting security interests in the same collateral perfected by filed financing statements that are effective solely under section 554.9508. However, if the security agreements to which a new debtor became bound as debtor were not entered into by the same original debtor, the conflicting security interests rank according to priority in time of the new debtor's having become bound.

Sec. 47. NEW SECTION. 554.9327 PRIORITY OF SECURITY INTERESTS IN DEPOSIT ACCOUNT.

The following rules govern priority among conflicting security interests in the same deposit account:

1. A security interest held by a secured party having control of the deposit account under section 554.9104 has priority over a conflicting security interest held by a secured party that does not have control.

2. Except as otherwise provided in subsections 3 and 4, security interests perfected by control under section 554.9314 rank according to priority in time of obtaining control.

3. Except as otherwise provided in subsection 4, a security interest held by the bank with which the deposit account is maintained has priority over a conflicting security interest held by another secured party.

4. A security interest perfected by control under section 554.9104, subsection 1, paragraph "c", has priority over a security interest held by the bank with which the deposit account is maintained.

Sec. 48. NEW SECTION. 554.9328 PRIORITY OF SECURITY INTERESTS IN INVESTMENT PROPERTY.

The following rules govern priority among conflicting security interests in the same investment property:

1. A security interest held by a secured party having control of investment property under section 554.9106 has priority over a security interest held by a secured party that does not have control of the investment property.

2. Except as otherwise provided in subsections 3 and 4, conflicting security interests held by secured parties each of which has control under section 554.9106 rank according to priority in time of:

a. if the collateral is a security, obtaining control;

b. if the collateral is a security entitlement carried in a securities account and:

(1) if the secured party obtained control under section 554.8106, subsection 4, paragraph "a", the secured party's becoming the person for which the securities account is maintained;

(2) if the secured party obtained control under section 554.8106, subsection 4, paragraph "b", the securities intermediary's agreement to comply with the secured party's entitlement orders with respect to security entitlements carried or to be carried in the securities account; or

(3) if the secured party obtained control through another person under section 554.8106, subsection 4, paragraph "b", the time on which priority would be based under this subsection if the other person were the secured party; or

c. if the collateral is a commodity contract carried with a commodity intermediary, the satisfaction of the requirement for control specified in section 554.9106, subsection 2, paragraph "b", with respect to commodity contracts carried or to be carried with the commodity intermediary.

3. A security interest held by a securities intermediary in a security entitlement or a securities account maintained with the securities intermediary has priority over a conflicting security interest held by another secured party.

4. A security interest held by a commodity intermediary in a commodity contract or a commodity account maintained with the commodity intermediary has priority over a conflicting security interest held by another secured party.

5. A security interest in a certificated security in registered form which is perfected by taking delivery under section 554.9313, subsection 1, and not by control under section 554.9314 has priority over a conflicting security interest perfected by a method other than control.

6. Conflicting security interests created by a broker, securities intermediary, or commodity intermediary which are perfected without control under section 554.9106 rank equally.

7. In all other cases, priority among conflicting security interests in investment property is governed by sections 554.9322 and 554.9323.

Sec. 49. NEW SECTION. 554.9329 PRIORITY OF SECURITY INTERESTS IN LETTER-OF-CREDIT RIGHT.

The following rules govern priority among conflicting security interests in the same letter-of-credit right:

1. A security interest held by a secured party having control of the letter-of-credit right under section 554.9107 has priority to the extent of its control over a conflicting security interest held by a secured party that does not have control.

2. Security interests perfected by control under section 554.9314 rank according to priority in time of obtaining control.

Sec. 50. NEW SECTION. 554.9330 PRIORITY OF PURCHASER OF CHATTEL PAPER OR INSTRUMENT.

1. PURCHASER'S PRIORITY — SECURITY INTEREST CLAIMED MERELY AS PROCEEDS. A purchaser of chattel paper has priority over a security interest in the chattel paper which is claimed merely as proceeds of inventory subject to a security interest if:

a. in good faith and in the ordinary course of the purchaser's business, the purchaser gives new value and takes possession of the chattel paper or obtains control of the chattel paper under section 554.9105; and

b. the chattel paper does not indicate that it has been assigned to an identified assignee other than the purchaser.

2. PURCHASER'S PRIORITY — OTHER SECURITY INTERESTS. A purchaser of chattel paper has priority over a security interest in the chattel paper which is claimed other than merely as proceeds of inventory subject to a security interest if the purchaser gives new value and takes possession of the chattel paper or obtains control of the chattel paper under section 554.9105 in good faith, in the ordinary course of the purchaser's business, and without knowledge that the purchase violates the rights of the secured party.

3. CHATTEL PAPER PURCHASER'S PRIORITY IN PROCEEDS. Except as otherwise provided in section 554.9327, a purchaser having priority in chattel paper under subsection 1 or 2 also has priority in proceeds of the chattel paper to the extent that:

a. section 554.9322 provides for priority in the proceeds; or

b. the proceeds consist of the specific goods covered by the chattel paper or cash proceeds of the specific goods, even if the purchaser's security interest in the proceeds is unperfected.

4. INSTRUMENT PURCHASER'S PRIORITY. Except as otherwise provided in section 554.9331, subsection 1, a purchaser of an instrument has priority over a security interest in the instrument perfected by a method other than possession if the purchaser gives value and takes possession of the instrument in good faith and without knowledge that the purchase violates the rights of the secured party.

5. HOLDER OF PURCHASE-MONEY SECURITY INTEREST GIVES NEW VALUE. For purposes of subsections 1 and 2, the holder of a purchase-money security interest in inventory gives new value for chattel paper constituting proceeds of the inventory.

6. INDICATION OF ASSIGNMENT GIVES KNOWLEDGE. For purposes of subsections 2 and 4, if chattel paper or an instrument indicates that it has been assigned to an identified secured party other than the purchaser, a purchaser of the chattel paper or instrument has knowledge that the purchase violates the rights of the secured party.

Sec. 51. NEW SECTION. 554.9331 PRIORITY OF RIGHTS OF PURCHASERS OF INSTRUMENTS, DOCUMENTS, AND SECURITIES UNDER OTHER ARTICLES — PRIORITY OF INTERESTS IN FINANCIAL ASSETS AND SECURITY ENTITLEMENTS UNDER ARTICLE 8.

1. RIGHTS UNDER ARTICLES 3, 7, AND 8 NOT LIMITED. This Article does not limit the rights of a holder in due course of a negotiable instrument, a holder to which a negotiable document of title has been duly negotiated, or a protected purchaser of a security. These holders or purchasers take priority over an earlier security interest, even if perfected, to the extent provided in Articles 3, 7, and 8.

2. PROTECTION UNDER ARTICLE 8. This Article does not limit the rights of or impose liability on a person to the extent that the person is protected against the assertion of a claim under Article 8.

3. FILING NOT NOTICE. Filing under this Article does not constitute notice of a claim or defense to the holders, or purchasers, or persons described in subsections 1 and 2.

Sec. 52. NEW SECTION. 554.9332 TRANSFER OF MONEY — TRANSFER OF FUNDS FROM DEPOSIT ACCOUNT.

1. TRANSFEREE OF MONEY. A transferee of money takes the money free of a security interest unless the transferee acts in collusion with the debtor in violating the rights of the secured party.

2. TRANSFEREE OF FUNDS FROM DEPOSIT ACCOUNT. A transferee of funds from a deposit account takes the funds free of a security interest in the deposit account unless the transferee acts in collusion with the debtor in violating the rights of the secured party.

Sec. 53. NEW SECTION. 554.9333 PRIORITY OF CERTAIN LIENS ARISING BY OPERATION OF LAW.

1. POSSESSORY LIEN. In this section, "possessory lien" means an interest, other than a security interest or an agricultural lien:

a. which secures payment or performance of an obligation for services or materials furnished with respect to goods by a person in the ordinary course of the person's business;

b. which is created by statute or rule of law in favor of the person; and

c. whose effectiveness depends on the person's possession of the goods.

2. PRIORITY OF POSSESSORY LIEN. A possessory lien on goods has priority over a security interest in the goods unless the lien is created by a statute that expressly provides otherwise.

Sec. 54. NEW SECTION. 554.9334 PRIORITY OF SECURITY INTERESTS IN FIXTURES AND CROPS.

1. SECURITY INTEREST IN FIXTURES UNDER THIS ARTICLE. A security interest under this Article may be created in goods that are fixtures or may continue in goods that become fixtures. A security interest does not exist under this Article in ordinary building materials incorporated into an improvement on land.

2. SECURITY INTEREST IN FIXTURES UNDER REAL-PROPERTY LAW. This Article does not prevent creation of an encumbrance upon fixtures under real property law.

3. GENERAL RULE — SUBORDINATION OF SECURITY INTEREST IN FIXTURES. In cases not governed by subsections 4 through 8, a security interest in fixtures is subordinate to a conflicting interest of an encumbrancer or owner of the related real property other than the debtor.

4. FIXTURES PURCHASE-MONEY PRIORITY. Except as otherwise provided in subsection 8, a perfected security interest in fixtures has priority over a conflicting interest of an encumbrancer or owner of the real property if the debtor has an interest of record in or is in possession of the real property and:

a. the security interest is a purchase-money security interest;

b. the interest of the encumbrancer or owner arises before the goods become fixtures; and

c. the security interest is perfected by a fixture filing before the goods become fixtures or within twenty days thereafter.

5. PRIORITY OF SECURITY INTEREST IN FIXTURES OVER INTERESTS IN REAL PROPERTY. A perfected security interest in fixtures has priority over a conflicting interest of an encumbrancer or owner of the real property if:

a. the debtor has an interest of record in the real property or is in possession of the real property and the security interest:

(1) is perfected by a fixture filing before the interest of the encumbrancer or owner is of record; and

(2) has priority over any conflicting interest of a predecessor in title of the encumbrancer or owner;

b. before the goods become fixtures, the security interest is perfected by any method permitted by this Article and the fixtures are readily removable:

(1) factory or office machines;

(2) equipment that is not primarily used or leased for use in the operation of the real property; or

(3) replacements of domestic appliances that are consumer goods;

c. the conflicting interest is a lien on the real property obtained by legal or equitable proceedings after the security interest was perfected by any method permitted by this Article; or

d. the security interest is:

(1) created in a manufactured home in a manufactured-home transaction; and

(2) perfected pursuant to a statute described in section 554.9311, subsection 1, paragraph "b".

6. PRIORITY BASED ON CONSENT, DISCLAIMER, OR RIGHT TO REMOVE. A security interest in fixtures, whether or not perfected, has priority over a conflicting interest of an encumbrancer or owner of the real property if:

a. the encumbrancer or owner has, in an authenticated record, consented to the security interest or disclaimed an interest in the goods as fixtures; or

b. the debtor has a right to remove the goods as against the encumbrancer or owner.

7. CONTINUATION OF SUBSECTION 6, PARAGRAPH "b", PRIORITY. The priority of the security interest under subsection 6, paragraph "b", continues for a reasonable time if the debtor's right to remove the goods as against the encumbrancer or owner terminates.

8. PRIORITY OF CONSTRUCTION MORTGAGE. A mortgage is a construction mortgage to the extent that it secures an obligation incurred for the construction of an improvement on land, including the acquisition cost of the land, if a recorded record of the mortgage so indicates. Except as otherwise provided in subsections 5 and 6, a security interest in fixtures is subordinate to a construction mortgage if a record of the mortgage is recorded before the goods become fixtures and the goods become fixtures before the completion of the construction. A mortgage has this priority to the same extent as a construction mortgage to the extent that it is given to refinance a construction mortgage.

9. PRIORITY OF SECURITY INTEREST IN CROPS. Except as provided in subsection 10, a perfected security interest in crops growing on real property has priority over a conflicting interest of an encumbrancer or owner of the real property if the debtor has an interest of record in or is in possession of the real property.

10. AGRICULTURAL LIENS PREVAIL. The provisions of this Article regarding agricultural liens prevail over any inconsistent provisions of subsection 9.

Sec. 55. NEW SECTION. 554.9335 ACCESSIONS.

1. CREATION OF SECURITY INTEREST IN ACCESSION. A security interest may be created in an accession and continues in collateral that becomes an accession.

2. PERFECTION OF SECURITY INTEREST. If a security interest is perfected when the collateral becomes an accession, the security interest remains perfected in the collateral.

3. PRIORITY OF SECURITY INTEREST. Except as otherwise provided in subsection 4, the other provisions of this part determine the priority of a security interest in an accession.

4. COMPLIANCE WITH CERTIFICATE-OF-TITLE STATUTE. A security interest in an accession is subordinate to a security interest in the whole which is perfected by compliance with the requirements of a certificate-of-title statute under section 554.9311, subsection 2.

5. REMOVAL OF ACCESSION AFTER DEFAULT. After default, subject to part 6, a secured party may remove an accession from other goods if the security interest in the accession has priority over the claims of every person having an interest in the whole.

6. REIMBURSEMENT FOLLOWING REMOVAL. A secured party that removes an accession from other goods under subsection 5 shall promptly reimburse any holder of a security interest or other lien on, or owner of, the whole or of the other goods, other than the debtor, for the cost of repair of any physical injury to the whole or the other goods. The secured party need not reimburse the holder or owner for any diminution in value of the whole or the other goods caused by the absence of the accession removed or by any necessity for replacing it. A person entitled to reimbursement may refuse permission to remove until the secured party gives adequate assurance for the performance of the obligation to reimburse.

Sec. 56. NEW SECTION. 554.9336 COMMINGLED GOODS.

1. COMMINGLED GOODS. In this section, "commingled goods" means goods that are physically united with other goods in such a manner that their identity is lost in a product or mass.

2. NO SECURITY INTEREST IN COMMINGLED GOODS AS SUCH. A security interest does not exist in commingled goods as such. However, a security interest may attach to a product or mass that results when goods become commingled goods.

3. ATTACHMENT OF SECURITY INTEREST TO PRODUCT OR MASS. If collateral becomes commingled goods, a security interest attaches to the product or mass.

4. PERFECTION OF SECURITY INTEREST. If a security interest in collateral is perfected before the collateral becomes commingled goods, the security interest that attaches to the product or mass under subsection 3 is perfected.

5. PRIORITY OF SECURITY INTEREST. Except as otherwise provided in subsection 6, the other provisions of this part determine the priority of a security interest that attaches to the product or mass under subsection 3.

6. CONFLICTING SECURITY INTERESTS IN PRODUCT OR MASS. If more than one security interest attaches to the product or mass under subsection 3, the following rules determine priority:

a. A security interest that is perfected under subsection 4 has priority over a security interest that is unperfected at the time the collateral becomes commingled goods.

b. If more than one security interest is perfected under subsection 4, the security interests rank equally in proportion to the value of the collateral at the time it became commingled goods.

Sec. 57. NEW SECTION. 554.9337 PRIORITY OF SECURITY INTERESTS IN GOODS COVERED BY CERTIFICATE OF TITLE.

If, while a security interest in goods is perfected by any method under the law of another jurisdiction, this state issues a certificate of title that does not show that the goods are subject to the security interest or contain a statement that they may be subject to security interests not shown on the certificate:

1. a buyer of the goods, other than a person in the business of selling goods of that kind, takes free of the security interest if the buyer gives value and receives delivery of the goods after issuance of the certificate and without knowledge of the security interest; and

2. the security interest is subordinate to a conflicting security interest in the goods that attaches, and is perfected under section 554.9311, subsection 2, after issuance of the certificate and without the conflicting secured party's knowledge of the security interest.

Sec. 58. NEW SECTION. 554.9338 PRIORITY OF SECURITY INTEREST OR AGRICULTURAL LIEN PERFECTED BY FILED FINANCING STATEMENT PROVIDING CERTAIN INCORRECT INFORMATION.

If a security interest or agricultural lien is perfected by a filed financing statement providing information described in section 554.9516, subsection 2, paragraph "e", which is incorrect at the time the financing statement is filed:

1. the security interest or agricultural lien is subordinate to a conflicting perfected security interest in the collateral to the extent that the holder of the conflicting security interest gives value in reasonable reliance upon the incorrect information; and

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 chattel paper, documents, goods, instruments, or a security certificate, receives delivery of the collateral.

Sec. 59. NEW SECTION. 554.9339 PRIORITY SUBJECT TO SUBORDINATION.

This Article does not preclude subordination by agreement by a person entitled to priority.

D. RIGHTS OF BANK

Sec. 60. NEW SECTION. 554.9340 EFFECTIVENESS OF RIGHT OF RECOUPMENT OR SETOFF AGAINST DEPOSIT ACCOUNT.

1. EXERCISE OF RECOUPMENT OR SETOFF. Except as otherwise provided in subsection 3, a bank with which a deposit account is maintained may exercise any right of recoupment or setoff against a secured party that holds a security interest in the deposit account.

2. RECOUPMENT OR SETOFF NOT AFFECTED BY SECURITY INTEREST. Except as otherwise provided in subsection 3, the application of this Article to a security interest in a deposit account does not affect a right of recoupment or setoff of the secured party as to a deposit account maintained with the secured party.

3. WHEN SETOFF INEFFECTIVE. The exercise by a bank of a setoff against a deposit account is ineffective against a secured party that holds a security interest in the deposit

account which is perfected by control under section 554.9104, subsection 1, paragraph "c", if the setoff is based on a claim against the debtor.

Sec. 61. NEW SECTION. 554.9341 BANK'S RIGHTS AND DUTIES WITH RESPECT TO DEPOSIT ACCOUNT.

Except as otherwise provided in section 554.9340, subsection 3, and unless the bank otherwise agrees in an authenticated record, a bank's rights and duties with respect to a deposit account maintained with the bank are not terminated, suspended, or modified by:

1. the creation, attachment, or perfection of a security interest in the deposit account;
2. the bank's knowledge of the security interest; or
3. the bank's receipt of instructions from the secured party.

Sec. 62. NEW SECTION. 554.9342 BANK'S RIGHT TO REFUSE TO ENTER INTO OR DISCLOSE EXISTENCE OF CONTROL AGREEMENT.

This Article does not require a bank to enter into an agreement of the kind described in section 554.9104, subsection 1, paragraph "b", even if its customer so requests or directs. A bank that has entered into such an agreement is not required to confirm the existence of the agreement to another person unless requested to do so by its customer.

PART 4
RIGHTS OF THIRD PARTIES

Sec. 63. NEW SECTION. 554.9401 ALIENABILITY OF DEBTOR'S RIGHTS.

1. OTHER LAW GOVERNS ALIENABILITY — EXCEPTIONS. Except as otherwise provided in subsection 2 and sections 554.9406, 554.9407, 554.9408, and 554.9409, whether a debtor's rights in collateral may be voluntarily or involuntarily transferred is governed by law other than this Article.

2. AGREEMENT DOES NOT PREVENT TRANSFER. An agreement between the debtor and secured party which prohibits a transfer of the debtor's rights in collateral or makes the transfer a default does not prevent the transfer from taking effect.

Sec. 64. NEW SECTION. 554.9402 SECURED PARTY NOT OBLIGATED ON CONTRACT OF DEBTOR OR IN TORT.

The existence of a security interest, agricultural lien, or authority given to a debtor to dispose of or use collateral, without more, does not subject a secured party to liability in contract or tort for the debtor's acts or omissions.

Sec. 65. NEW SECTION. 554.9403 AGREEMENT NOT TO ASSERT DEFENSES AGAINST ASSIGNEE.

1. VALUE. In this section, "value" has the meaning provided in section 554.3303, subsection 1.

2. AGREEMENT NOT TO ASSERT CLAIM OR DEFENSE. Except as otherwise provided in this section, an agreement between an account debtor and an assignor not to assert against an assignee any claim or defense that the account debtor may have against the assignor is enforceable by an assignee that takes an assignment:

a. for value;
b. in good faith;
c. without notice of a claim of a property or possessory right to the property assigned; and
d. without notice of a defense or claim in recoupment of the type that may be asserted against a person entitled to enforce a negotiable instrument under section 554.3305, subsection 1.

3. WHEN SUBSECTION 2 NOT APPLICABLE. Subsection 2 does not apply to defenses of a type that may be asserted against a holder in due course of a negotiable instrument under section 554.3305, subsection 2.

4. OMISSION OF REQUIRED STATEMENT IN CONSUMER TRANSACTION. In a consumer transaction, if a record evidences the account debtor's obligation, law other than this Article requires that the record include a statement to the effect that the rights of an assignee are subject to claims or defenses that the account debtor could assert against the original obligee, and the record does not include such a statement:

a. the record has the same effect as if the record included such a statement; and

b. the account debtor may assert against an assignee those claims and defenses that would have been available if the record included such a statement.

5. RULE FOR INDIVIDUAL UNDER OTHER LAW. This section is subject to law other than this Article which establishes a different rule for an account debtor who is an individual and who incurred the obligation primarily for personal, family, or household purposes.

6. OTHER LAW NOT DISPLACED. Except as otherwise provided in subsection 4, this section does not displace law other than this Article which gives effect to an agreement by an account debtor not to assert a claim or defense against an assignee.

Sec. 66. NEW SECTION. 554.9404 RIGHTS ACQUIRED BY ASSIGNEE — CLAIMS AND DEFENSES AGAINST ASSIGNEE.

1. ASSIGNEE'S RIGHTS SUBJECT TO TERMS, CLAIMS, AND DEFENSES — EXCEPTIONS. Unless an account debtor has made an enforceable agreement not to assert defenses or claims, and subject to subsections 2 through 5, the rights of an assignee are subject to:

a. all terms of the agreement between the account debtor and assignor and any defense or claim in recoupment arising from the transaction that gave rise to the contract; and

b. any other defense or claim of the account debtor against the assignor which accrues before the account debtor receives a notification of the assignment authenticated by the assignor or the assignee.

2. ACCOUNT DEBTOR'S CLAIM REDUCES AMOUNT OWED TO ASSIGNEE. Subject to subsection 3 and except as otherwise provided in subsection 4, the claim of an account debtor against an assignor may be asserted against an assignee under subsection 1 only to reduce the amount the account debtor owes.

3. RULE FOR INDIVIDUAL UNDER OTHER LAW. This section is subject to law other than this Article which establishes a different rule for an account debtor who is an individual and who incurred the obligation primarily for personal, family, or household purposes.

4. OMISSION OF REQUIRED STATEMENT IN CONSUMER TRANSACTION. In a consumer transaction, if a record evidences the account debtor's obligation, law other than this Article requires that the record include a statement to the effect that the account debtor's recovery against an assignee with respect to claims and defenses against the assignor may not exceed amounts paid by the account debtor under the record, and the record does not include such a statement, the extent to which a claim of an account debtor against the assignor may be asserted against an assignee is determined as if the record included such a statement.

5. INAPPLICABILITY TO HEALTH-CARE-INSURANCE RECEIVABLE. This section does not apply to an assignment of a health-care-insurance receivable.

Sec. 67. NEW SECTION. 554.9405 MODIFICATION OF ASSIGNED CONTRACT.

1. EFFECT OF MODIFICATION ON ASSIGNEE. A modification of or substitution for an assigned contract is effective against an assignee if made in good faith. The assignee acquires corresponding rights under the modified or substituted contract. The assignment may provide that the modification or substitution is a breach of contract by the assignor. This subsection is subject to subsections 2 through 4.

2. APPLICABILITY OF SUBSECTION 1. Subsection 1 applies to the extent that:

a. the right to payment or a part thereof under an assigned contract has not been fully earned by performance; or

b. the right to payment or a part thereof has been fully earned by performance and the account debtor has not received notification of the assignment under section 554.9406, subsection 1.

3. RULE FOR INDIVIDUAL UNDER OTHER LAW. This section is subject to law other than this Article which establishes a different rule for an account debtor who is an individual and who incurred the obligation primarily for personal, family, or household purposes.

4. INAPPLICABILITY TO HEALTH-CARE-INSURANCE RECEIVABLE. This section does not apply to an assignment of a health-care-insurance receivable.

Sec. 68. NEW SECTION. 554.9406 DISCHARGE OF ACCOUNT DEBTOR — NOTIFICATION OF ASSIGNMENT — IDENTIFICATION AND PROOF OF ASSIGNMENT — RESTRICTIONS ON ASSIGNMENT OF ACCOUNTS, CHATTEL PAPER, PAYMENT INTANGIBLES, AND PROMISSORY NOTES INEFFECTIVE.

1. DISCHARGE OF ACCOUNT DEBTOR — EFFECT OF NOTIFICATION. Subject to subsections 2 through 9, an account debtor on an account, chattel paper, or a payment intangible may discharge its obligation by paying the assignor until, but not after, the account debtor receives a notification, authenticated by the assignor or the assignee, that the amount due or to become due has been assigned and that payment is to be made to the assignee. After receipt of the notification, the account debtor may discharge its obligation by paying the assignee and may not discharge the obligation by paying the assignor.

2. WHEN NOTIFICATION INEFFECTIVE. Subject to subsection 8, notification is ineffective under subsection 1:

a. if it does not reasonably identify the rights assigned;

b. to the extent that an agreement between an account debtor and a seller of a payment intangible limits the account debtor's duty to pay a person other than the seller and the limitation is effective under law other than this Article; or

c. at the option of an account debtor, if the notification notifies the account debtor to make less than the full amount of any installment or other periodic payment to the assignee, even if:

(1) only a portion of the account, chattel paper, or payment intangible has been assigned to that assignee;

(2) a portion has been assigned to another assignee; or

(3) the account debtor knows that the assignment to that assignee is limited.

3. PROOF OF ASSIGNMENT. Subject to subsection 8, if requested by the account debtor, an assignee shall seasonably furnish reasonable proof that the assignment has been made. Unless the assignee complies, the account debtor may discharge its obligation by paying the assignor, even if the account debtor has received a notification under subsection 1.

4. TERM RESTRICTING ASSIGNMENT GENERALLY INEFFECTIVE. Except as otherwise provided in subsection 5 and sections 554.9407 and 554.13303, and subject to subsection 8, a term in an agreement between an account debtor and an assignor or in a promissory note is ineffective to the extent that it:

a. prohibits, restricts, or requires the consent of the account debtor or person obligated on the promissory note to the assignment or transfer of, or the creation, attachment, perfection, or enforcement of a security interest in, the account, chattel paper, payment intangible, or promissory note; or

b. provides that the assignment or transfer or the creation, attachment, perfection, or enforcement of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination, or remedy under the account, chattel paper, payment intangible, or promissory note.

5. INAPPLICABILITY OF SUBSECTION 4 TO CERTAIN SALES. Subsection 4 does not apply to the sale of a payment intangible or promissory note.

6. LEGAL RESTRICTIONS ON ASSIGNMENT GENERALLY INEFFECTIVE. Except as otherwise provided in sections 554.9407 and 554.13303 and subject to subsections 8 and 9, a rule of law, statute, or regulation that prohibits, restricts, or requires the consent of a

government, governmental body or official, or account debtor to the assignment or transfer of, or creation of a security interest in, an account or chattel paper is ineffective to the extent that the rule of law, statute, or regulation:

a. prohibits, restricts, or requires the consent of the government, governmental body or official, or account debtor to the assignment or transfer of, or the creation, attachment, perfection, or enforcement of a security interest in the account or chattel paper; or

b. provides that the assignment or transfer or the creation, attachment, perfection, or enforcement of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination, or remedy under the account or chattel paper.

7. SUBSECTION 2, PARAGRAPH "C", NOT WAIVABLE. Subject to subsection 8, an account debtor may not waive or vary its option under subsection 2, paragraph "c".

8. RULE FOR INDIVIDUAL UNDER OTHER LAW. This section is subject to law other than this Article which establishes a different rule for an account debtor who is an individual and who incurred the obligation primarily for personal, family, or household purposes.

9. INAPPLICABILITY TO HEALTH-CARE-INSURANCE RECEIVABLE. This section does not apply to an assignment of a health-care-insurance receivable.

10. SECTION PREVAILS OVER SPECIFIED INCONSISTENT LAW. This section prevails over any inconsistent provision of an existing or future statute, rule, or regulation of this state unless the provision is contained in a statute of this state, refers expressly to this section, and states that the provision prevails over this section.

Sec. 69. NEW SECTION. 554.9407 RESTRICTIONS ON CREATION OR ENFORCEMENT OF SECURITY INTEREST IN LEASEHOLD INTEREST OR IN LESSOR'S RESIDUAL INTEREST.

1. TERM RESTRICTING ASSIGNMENT GENERALLY INEFFECTIVE. Except as otherwise provided in subsection 2, a term in a lease agreement is ineffective to the extent that it:

a. prohibits, restricts, or requires the consent of a party to the lease to the assignment or transfer of, or the creation, attachment, perfection, or enforcement of a security interest in, an interest of a party under the lease contract or in the lessor's residual interest in the goods; or

b. provides that the assignment or transfer or the creation, attachment, perfection, or enforcement of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination, or remedy under the lease.

2. EFFECTIVENESS OF CERTAIN TERMS. Except as otherwise provided in section 554.13303, subsection 7, a term described in subsection 1, paragraph "b", is effective to the extent that there is:

a. a transfer by the lessee of the lessee's right of possession or use of the goods in violation of the term; or

b. a delegation of a material performance of either party to the lease contract in violation of the term.

3. SECURITY INTEREST NOT MATERIAL IMPAIRMENT. The creation, attachment, perfection, or enforcement of a security interest in the lessor's interest under the lease contract or the lessor's residual interest in the goods is not a transfer that materially impairs the lessee's prospect of obtaining return performance or materially changes the duty of or materially increases the burden or risk imposed on the lessee within the purview of section 554.13303, subsection 3, unless, and then only to the extent that, enforcement actually results in a delegation of material performance of the lessor.

Sec. 70. NEW SECTION. 554.9408 RESTRICTIONS ON ASSIGNMENT OF PROMISSORY NOTES, HEALTH-CARE-INSURANCE RECEIVABLES, AND CERTAIN GENERAL INTANGIBLES INEFFECTIVE.

1. TERM RESTRICTING ASSIGNMENT GENERALLY INEFFECTIVE. Except as otherwise provided in subsection 2, a term in a promissory note or in an agreement between an account debtor and a debtor which relates to a health-care-insurance receivable or a general intangible, including a contract, permit, license, or franchise, and which term prohibits,

restricts, or requires the consent of the person obligated on the promissory note or the account debtor to, the assignment or transfer of, or creation, attachment, or perfection of a security interest in, the promissory note, health-care-insurance receivable, or general intangible, is ineffective to the extent that the term:

a. would impair the creation, attachment, or perfection of a security interest; or

b. provides that the assignment or transfer or the creation, attachment, or perfection of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination, or remedy under the promissory note, health-care-insurance receivable, or general intangible.

2. APPLICABILITY OF SUBSECTION 1 TO SALES OF CERTAIN RIGHTS TO PAYMENT. Subsection 1 applies to a security interest in a payment intangible or promissory note only if the security interest arises out of a sale of the payment intangible or promissory note.

3. LEGAL RESTRICTIONS ON ASSIGNMENT GENERALLY INEFFECTIVE. A rule of law, statute, or regulation that prohibits, restricts, or requires the consent of a government, governmental body or official, person obligated on a promissory note, or account debtor to the assignment or transfer of, or creation of a security interest in, a promissory note, health-care-insurance receivable, or general intangible, including a contract, permit, license, or franchise between an account debtor and a debtor, is ineffective to the extent that the rule of law, statute, or regulation:

a. would impair the creation, attachment, or perfection of a security interest; or

b. provides that the assignment or transfer or the creation, attachment, or perfection of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination, or remedy under the promissory note, health-care-insurance receivable, or general intangible.

4. LIMITATION ON INEFFECTIVENESS UNDER SUBSECTIONS 1 AND 3. To the extent that a term in a promissory note or in an agreement between an account debtor and a debtor which relates to a health-care-insurance receivable or general intangible or a rule of law, statute, or regulation described in subsection 3 would be effective under law other than this Article but is ineffective under subsection 1 or 3, the creation, attachment, or perfection of a security interest in the promissory note, health-care-insurance receivable, or general intangible:

a. is not enforceable against the person obligated on the promissory note or the account debtor;

b. does not impose a duty or obligation on the person obligated on the promissory note or the account debtor;

c. does not require the person obligated on the promissory note or the account debtor to recognize the security interest, pay or render performance to the secured party, or accept payment or performance from the secured party;

d. does not entitle the secured party to use or assign the debtor's rights under the promissory note, health-care-insurance receivable, or general intangible, including any related information or materials furnished to the debtor in the transaction giving rise to the promissory note, health-care-insurance receivable, or general intangible;

e. does not entitle the secured party to use, assign, possess, or have access to any trade secrets or confidential information of the person obligated on the promissory note or the account debtor; and

f. does not entitle the secured party to enforce the security interest in the promissory note, health-care-insurance receivable, or general intangible.

5. SECTION PREVAILS OVER SPECIFIED INCONSISTENT LAW. This section prevails over any inconsistent provision of an existing or future statute, rule, or regulation of this state unless the provision is contained in a statute of this state, refers expressly to this section, and states that the provision prevails over this section.

Sec. 71. NEW SECTION. 554.9409 RESTRICTIONS ON ASSIGNMENT OF LETTER-OF-CREDIT RIGHTS INEFFECTIVE.

1. TERM OR LAW RESTRICTING ASSIGNMENT GENERALLY INEFFECTIVE. A term in a letter of credit or a rule of law, statute, regulation, custom, or practice applicable to the letter of credit which prohibits, restricts, or requires the consent of an applicant, issuer, or nominated person to a beneficiary's assignment of or creation of a security interest in a letter-of-credit right is ineffective to the extent that the term or rule of law, statute, regulation, custom, or practice:

a. would impair the creation, attachment, or perfection of a security interest in the letter-of-credit right; or

b. provides that the assignment or the creation, attachment, or perfection of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination, or remedy under the letter-of-credit right.

2. LIMITATION ON INEFFECTIVENESS UNDER SUBSECTION 1. To the extent that a term in a letter of credit is ineffective under subsection 1 but would be effective under law other than this Article or a custom or practice applicable to the letter of credit, to the transfer of a right to draw or otherwise demand performance under the letter of credit, or to the assignment of a right to proceeds of the letter of credit, the creation, attachment, or perfection of a security interest in the letter-of-credit right:

a. is not enforceable against the applicant, issuer, nominated person, or transferee beneficiary;

b. imposes no duties or obligations on the applicant, issuer, nominated person, or transferee beneficiary; and

c. does not require the applicant, issuer, nominated person, or transferee beneficiary to recognize the security interest, pay or render performance to the secured party, or accept payment or other performance from the secured party.

PART 5
FILING
A. FILING OFFICE — CONTENTS AND
EFFECTIVENESS OF FINANCING STATEMENT

Sec. 72. NEW SECTION. 554.9501 FILING OFFICE.

1. FILING OFFICES. Except as otherwise provided in subsection 2, if the local law of this state governs perfection of a security interest or agricultural lien, the office in which to file a financing statement to perfect the security interest or agricultural lien is:

a. the office designated for the filing or recording of a record of a mortgage on the related real property, if:

(1) the collateral is as-extracted collateral or timber to be cut; or

(2) the financing statement is filed as a fixture filing and the collateral is goods that are or are to become fixtures; or

b. the office of the secretary of state in all other cases, including a case in which the collateral is goods that are or are to become fixtures and the financing statement is not filed as a fixture filing.

2. FILING OFFICE FOR TRANSMITTING UTILITIES. The office in which to file a financing statement to perfect a security interest in collateral, including fixtures, of a transmitting utility is the office of the secretary of state. The financing statement also constitutes a fixture filing as to the collateral indicated in the financing statement which is or is to become fixtures.

Sec. 73. NEW SECTION. 554.9502 CONTENTS OF FINANCING STATEMENT — RECORD OF MORTGAGE AS FINANCING STATEMENT — TIME OF FILING FINANCING STATEMENT.

1. SUFFICIENCY OF FINANCING STATEMENT. Subject to subsection 2, a financing statement is sufficient only if it:

a. provides the name of the debtor;

b. provides the name of the secured party or a representative of the secured party; and

c. indicates the collateral covered by the financing statement.

2. REAL-PROPERTY-RELATED FINANCING STATEMENTS. Except as otherwise provided in section 554.9501, subsection 2, to be sufficient, a financing statement that covers as-extracted collateral or timber to be cut, or which is filed as a fixture filing and covers goods that are or are to become fixtures, must satisfy subsection 1 and also:

a. indicate that it covers this type of collateral;

b. indicate that it is to be filed for record in the real property records;

c. provide a description of the real property to which the collateral is related sufficient to give constructive notice of a mortgage under the law of this state if the description were contained in a record of the mortgage of the real property; and

d. if the debtor does not have an interest of record in the real property, provide the name of a record owner.

3. RECORD OF MORTGAGE AS FINANCING STATEMENT. A record of a mortgage is effective, from the date of recording, as a financing statement filed as a fixture filing or as a financing statement covering as-extracted collateral or timber to be cut only if:

a. the record indicates the goods or accounts that it covers;

b. the goods are or are to become fixtures related to the real property described in the record or the collateral is related to the real property described in the record and is as-extracted collateral or timber to be cut;

c. the record satisfies the requirements for a financing statement in this section other than an indication that it is to be filed in the real property records; and

d. the record is duly recorded.

4. FILING BEFORE SECURITY AGREEMENT OR ATTACHMENT. A financing statement may be filed before a security agreement is made or a security interest otherwise attaches.

Sec. 74. NEW SECTION. 554.9503 NAME OF DEBTOR AND SECURED PARTY.

1. SUFFICIENCY OF DEBTOR'S NAME. A financing statement sufficiently provides the name of the debtor:

a. if the debtor is a registered organization, only if the financing statement provides the name of the debtor indicated on the public record of the debtor's jurisdiction of organization which shows the debtor to have been organized;

b. if the debtor is a decedent's estate, only if the financing statement provides the name of the decedent and indicates that the debtor is an estate;

c. if the debtor is a trust or a trustee acting with respect to property held in trust, only if the financing statement:

(1) provides the name specified for the trust in its organic documents or, if no name is specified, provides the name of the settlor and additional information sufficient to distinguish the debtor from other trusts having one or more of the same settlors; and

(2) indicates, in the debtor's name or otherwise, that the debtor is a trust or is a trustee acting with respect to property held in trust; and

d. in other cases:

(1) if the debtor has a name, only if it provides the individual or organizational name of the debtor; and

(2) if the debtor does not have a name, only if it provides the names of the partners, members, associates, or other persons comprising the debtor.

2. ADDITIONAL DEBTOR-RELATED INFORMATION. A financing statement that provides the name of the debtor in accordance with subsection 1 is not rendered ineffective by the absence of:

a. a trade name or other name of the debtor; or

b. unless required under subsection 1, paragraph "d", subparagraph (2), names of partners, members, associates, or other persons comprising the debtor.

3. DEBTOR'S TRADE NAME INSUFFICIENT. A financing statement that provides only the debtor's trade name does not sufficiently provide the name of the debtor.

4. REPRESENTATIVE CAPACITY. Failure to indicate the representative capacity of a secured party or representative of a secured party does not affect the sufficiency of a financing statement.

5. MULTIPLE DEBTORS AND SECURED PARTIES. A financing statement may provide the name of more than one debtor and the name of more than one secured party.

Sec. 75. NEW SECTION. 554.9504 INDICATION OF COLLATERAL.

A financing statement sufficiently indicates the collateral that it covers if the financing statement provides:

1. a description of the collateral pursuant to section 554.9108; or

2. an indication that the financing statement covers all assets or all personal property.

Sec. 76. NEW SECTION. 554.9505 FILING AND COMPLIANCE WITH OTHER STATUTES AND TREATIES FOR CONSIGNMENTS, LEASES, OTHER BAILMENTS, AND OTHER TRANSACTIONS.

1. USE OF TERMS OTHER THAN DEBTOR AND SECURED PARTY. A consignor, lessor, or other bailor of goods, a licensor, or a buyer of a payment intangible or promissory note may file a financing statement, or may comply with a statute or treaty described in section 554.9311, subsection 1, using the terms "consignor", "consignee", "lessor", "lessee", "bailor", "bailee", "licensor", "licensee", "owner", "registered owner", "buyer", "seller", or words of similar import, instead of the terms "secured party" and "debtor".

2. EFFECT OF FINANCING STATEMENT UNDER SUBSECTION 1. This part applies to the filing of a financing statement under subsection 1 and, as appropriate, to compliance that is equivalent to filing a financing statement under section 554.9311, subsection 2, but the filing or compliance is not of itself a factor in determining whether the collateral secures an obligation. If it is determined for another reason that the collateral secures an obligation, a security interest held by the consignor, lessor, bailor, licensor, owner, or buyer which attaches to the collateral is perfected by the filing or compliance.

Sec. 77. NEW SECTION. 554.9506 EFFECT OF ERRORS OR OMISSIONS.

1. MINOR ERRORS AND OMISSIONS. A financing statement substantially satisfying the requirements of this part is effective, even if it has minor errors or omissions, unless the errors or omissions make the financing statement seriously misleading.

2. FINANCING STATEMENT SERIOUSLY MISLEADING. Except as otherwise provided in subsection 3, a financing statement that fails sufficiently to provide the name of the debtor in accordance with section 554.9503, subsection 1, is seriously misleading.

3. FINANCING STATEMENT NOT SERIOUSLY MISLEADING. If a search of the records of the filing office under the debtor's correct name, using the filing office's standard search logic, if any, would disclose a financing statement that fails sufficiently to provide the name of the debtor in accordance with section 554.9503, subsection 1, the name provided does not make the financing statement seriously misleading.

4. DEBTOR'S CORRECT NAME. For purposes of section 554.9508, subsection 2, the "debtor's correct name" in subsection 3 means the correct name of the new debtor.

Sec. 78. NEW SECTION. 554.9507 EFFECT OF CERTAIN EVENTS ON EFFECTIVENESS OF FINANCING STATEMENT.

1. DISPOSITION. A filed financing statement remains effective with respect to collateral that is sold, exchanged, leased, licensed, or otherwise disposed of and in which a security interest or agricultural lien continues, even if the secured party knows of or consents to the disposition.

2. INFORMATION BECOMING SERIOUSLY MISLEADING. Except as otherwise provided in subsection 3 and section 554.9508, a financing statement is not rendered ineffective if, after the financing statement is filed, the information provided in the financing statement becomes seriously misleading under section 554.9506.

3. CHANGE IN DEBTOR'S NAME. If a debtor so changes its name that a filed financing statement becomes seriously misleading under section 554.9506:

a. the financing statement is effective to perfect a security interest in collateral acquired by the debtor before, or within four months after, the change; and

b. the financing statement is not effective to perfect a security interest in collateral acquired by the debtor more than four months after the change, unless an amendment to the financing statement which renders the financing statement not seriously misleading is filed within four months after the change.

Sec. 79. NEW SECTION. 554.9508 EFFECTIVENESS OF FINANCING STATEMENT IF NEW DEBTOR BECOMES BOUND BY SECURITY AGREEMENT.

1. FINANCING STATEMENT NAMING ORIGINAL DEBTOR. Except as otherwise provided in this section, a filed financing statement naming an original debtor is effective to perfect a security interest in collateral in which a new debtor has or acquires rights to the extent that the financing statement would have been effective had the original debtor acquired rights in the collateral.

2. FINANCING STATEMENT BECOMING SERIOUSLY MISLEADING. If the difference between the name of the original debtor and that of the new debtor causes a filed financing statement that is effective under subsection 1 to be seriously misleading under section 554.9506:

a. the financing statement is effective to perfect a security interest in collateral acquired by the new debtor before, and within four months after, the new debtor becomes bound under section 554.9203, subsection 4; and

b. the financing statement is not effective to perfect a security interest in collateral acquired by the new debtor more than four months after the new debtor becomes bound under section 554.9203, subsection 4, unless an initial financing statement providing the name of the new debtor is filed before the expiration of that time.

3. WHEN SECTION NOT APPLICABLE. This section does not apply to collateral as to which a filed financing statement remains effective against the new debtor under section 554.9507, subsection 1.

Sec. 80. NEW SECTION. 554.9509 PERSONS ENTITLED TO FILE A RECORD.

1. PERSON ENTITLED TO FILE RECORD. A person may file an initial financing statement, amendment that adds collateral covered by a financing statement, or amendment that adds a debtor to a financing statement only if:

a. the debtor authorizes the filing in an authenticated record or pursuant to subsection 2 or 3; or

b. the person holds an agricultural lien that has become effective at the time of filing and the financing statement covers only collateral in which the person holds an agricultural lien.

2. SECURITY AGREEMENT AS AUTHORIZATION. By authenticating or becoming bound as debtor by a security agreement, a debtor or new debtor authorizes the filing of an initial financing statement, and an amendment, covering:

a. the collateral described in the security agreement; and

b. property that becomes collateral under section 554.9315, subsection 1, paragraph "b", whether or not the security agreement expressly covers proceeds.

3. ACQUISITION OF COLLATERAL AS AUTHORIZATION. By acquiring collateral in which a security interest or agricultural lien continues under section 554.9315, subsection 1, paragraph "a", a debtor authorizes the filing of an initial financing statement, and an amendment, covering the collateral and property that becomes collateral under section 554.9315, subsection 1, paragraph "b".

4. PERSON ENTITLED TO FILE CERTAIN AMENDMENTS. A person may file an amendment other than an amendment that adds collateral covered by a financing statement or an amendment that adds a debtor to a financing statement only if:

a. the secured party of record authorizes the filing; or

b. the amendment is a termination statement for a financing statement as to which the secured party of record has failed to file or send a termination statement as required by section 554.9513, subsection 1 or 3, the debtor authorizes the filing, and the termination statement indicates that the debtor authorized it to be filed.

5. MULTIPLE SECURED PARTIES OF RECORD. If there is more than one secured party of record for a financing statement, each secured party of record may authorize the filing of an amendment under subsection 4.

Sec. 81. NEW SECTION. 554.9510 EFFECTIVENESS OF FILED RECORD.

1. FILED RECORD EFFECTIVE IF AUTHORIZED. A filed record is effective only to the extent that it was filed by a person that may file it under section 554.9509.

2. AUTHORIZATION BY ONE SECURED PARTY OF RECORD. A record authorized by one secured party of record does not affect the financing statement with respect to another secured party of record.

3. CONTINUATION STATEMENT NOT TIMELY FILED. A continuation statement that is not filed within the six-month period prescribed by section 554.9515, subsection 4, is ineffective.

Sec. 82. NEW SECTION. 554.9511 SECURED PARTY OF RECORD.

1. SECURED PARTY OF RECORD. A secured party of record with respect to a financing statement is a person whose name is provided as the name of the secured party or a representative of the secured party in an initial financing statement that has been filed. If an initial financing statement is filed under section 554.9514, subsection 1, the assignee named in the initial financing statement is the secured party of record with respect to the financing statement.

2. AMENDMENT NAMING SECURED PARTY OF RECORD. If an amendment of a financing statement which provides the name of a person as a secured party or a representative of a secured party is filed, the person named in the amendment is a secured party of record. If an amendment is filed under section 554.9514, subsection 2, the assignee named in the amendment is a secured party of record.

3. AMENDMENT DELETING SECURED PARTY OF RECORD. A person remains a secured party of record until the filing of an amendment of the financing statement which deletes the person.

Sec. 83. NEW SECTION. 554.9512 AMENDMENT OF FINANCING STATEMENT.

1. AMENDMENT OF INFORMATION IN FINANCING STATEMENT. Subject to section 554.9509, a person may add or delete collateral covered by, continue or terminate the effectiveness of, or, subject to subsection 5, otherwise amend the information provided in, a financing statement by filing an amendment that:

a. identifies, by its file number, the initial financing statement to which the amendment relates; and

b. if the amendment relates to an initial financing statement filed or recorded in a filing office described in section 554.9501, subsection 1, paragraph "a", provides the date and time that the initial financing statement was filed or recorded and the information specified in section 554.9502, subsection 2.

2. PERIOD OF EFFECTIVENESS NOT AFFECTED. Except as otherwise provided in section 554.9515, the filing of an amendment does not extend the period of effectiveness of the financing statement.

3. EFFECTIVENESS OF AMENDMENT ADDING COLLATERAL. A financing statement that is amended by an amendment that adds collateral is effective as to the added collateral only from the date of the filing of the amendment.

4. EFFECTIVENESS OF AMENDMENT ADDING DEBTOR. A financing statement that is amended by an amendment that adds a debtor is effective as to the added debtor only from the date of the filing of the amendment.

5. CERTAIN AMENDMENTS INEFFECTIVE. An amendment is ineffective to the extent it:

a. purports to delete all debtors and fails to provide the name of a debtor to be covered by the financing statement; or

b. purports to delete all secured parties of record and fails to provide the name of a new secured party of record.

Sec. 84. NEW SECTION. 554.9513 TERMINATION STATEMENT.

1. CONSUMER GOODS. A secured party shall cause the secured party of record for a financing statement to file a termination statement for the financing statement if the financing statement covers consumer goods and:

a. there is no obligation secured by the collateral covered by the financing statement and no commitment to make an advance, incur an obligation, or otherwise give value; or

b. the debtor did not authorize the filing of the initial financing statement.

2. TIME FOR COMPLIANCE WITH SUBSECTION 1. To comply with subsection 1, a secured party shall cause the secured party of record to file the termination statement:

a. within one month after there is no obligation secured by the collateral covered by the financing statement and no commitment to make an advance, incur an obligation, or otherwise give value; or

b. if earlier, within twenty days after the secured party receives an authenticated demand from a debtor.

3. OTHER COLLATERAL. In cases not governed by subsection 1, within twenty days after a secured party receives an authenticated demand from a debtor, the secured party shall cause the secured party of record for a financing statement to send to the debtor a termination statement for the financing statement or file the termination statement in the filing office if:

a. except in the case of a financing statement covering accounts or chattel paper that has been sold or goods that are the subject of a consignment, there is no obligation secured by the collateral covered by the financing statement and no commitment to make an advance, incur an obligation, or otherwise give value;

b. the financing statement covers accounts or chattel paper that has been sold but as to which the account debtor or other person obligated has discharged its obligation;

c. the financing statement covers goods that were the subject of a consignment to the debtor but are not in the debtor's possession; or

d. the debtor did not authorize the filing of the initial financing statement.

4. EFFECT OF FILING TERMINATION STATEMENT. Except as otherwise provided in section 554.9510, upon the filing of a termination statement with the filing office, the financing statement to which the termination statement relates ceases to be effective. Except as otherwise provided in section 554.9510, for purposes of section 554.9519, subsection 7, section 554.9522, subsection 1, and section 554.9523, subsection 3, the filing with the filing office of a termination statement relating to a financing statement that indicates that the debtor is a transmitting utility also causes the effectiveness of the financing statement to lapse.

Sec. 85. NEW SECTION. 554.9514 ASSIGNMENT OF POWERS OF SECURED PARTY OF RECORD.

1. ASSIGNMENT REFLECTED ON INITIAL FINANCING STATEMENT. Except as otherwise provided in subsection 3, an initial financing statement may reflect an assignment of all of the secured party's power to authorize an amendment to the financing statement by providing the name and mailing address of the assignee as the name and address of the secured party.

2. ASSIGNMENT OF FILED FINANCING STATEMENT. Except as otherwise provided in subsection 3, a secured party of record may assign of record all or part of its power to authorize an amendment to a financing statement by filing in the filing office an amendment of the financing statement which:

a. identifies, by its file number, the initial financing statement to which it relates;
b. provides the name of the assignor; and
c. provides the name and mailing address of the assignee.

3. ASSIGNMENT OF RECORD OF MORTGAGE. An assignment of record of a security interest in a fixture covered by a record of a mortgage which is effective as a financing statement filed as a fixture filing under section 554.9502, subsection 3, may be made only by an assignment of record of the mortgage in the manner provided by law of this state other than this chapter.

Sec. 86. NEW SECTION. 554.9515 DURATION AND EFFECTIVENESS OF FINANCING STATEMENT — EFFECT OF LAPSED FINANCING STATEMENT.

1. FIVE-YEAR EFFECTIVENESS. Except as otherwise provided in subsections 2, 5, 6, and 7, a filed financing statement is effective for a period of five years after the date of filing.

2. PUBLIC-FINANCE OR MANUFACTURED-HOME TRANSACTION. Except as otherwise provided in subsections 5, 6, and 7, an initial financing statement filed in connection with a public-finance transaction or manufactured-home transaction is effective for a period of thirty years after the date of filing if it indicates that it is filed in connection with a public-finance transaction or manufactured-home transaction.

3. LAPSE AND CONTINUATION OF FINANCING STATEMENT. The effectiveness of a filed financing statement lapses on the expiration of the period of its effectiveness unless before the lapse a continuation statement is filed pursuant to subsection 4. Upon lapse, a financing statement ceases to be effective and any security interest or agricultural lien that was perfected by the financing statement becomes unperfected, unless the security interest is perfected otherwise. If the security interest or agricultural lien becomes unperfected upon lapse, it is deemed never to have been perfected as against a purchaser of the collateral for value.

4. WHEN CONTINUATION STATEMENT MAY BE FILED. A continuation statement may be filed only within six months before the expiration of the five-year period specified in subsection 1 or the thirty-year period specified in subsection 2, whichever is applicable.

5. EFFECT OF FILING CONTINUATION STATEMENT. Except as otherwise provided in section 554.9510, upon timely filing of a continuation statement, the effectiveness of the initial financing statement continues for a period of five years commencing on the day on which the financing statement would have become ineffective in the absence of the filing. Upon the expiration of the five-year period, the financing statement lapses in the same manner as provided in subsection 3, unless, before the lapse, another continuation statement is filed pursuant to subsection 4. Succeeding continuation statements may be filed in the same manner to continue the effectiveness of the initial financing statement.

6. TRANSMITTING UTILITY FINANCING STATEMENT. If a debtor is a transmitting utility and a filed financing statement so indicates, the financing statement is effective until a termination statement is filed.

7. RECORD OF MORTGAGE AS FINANCING STATEMENT. A record of a mortgage that is effective as a financing statement filed as a fixture filing under section 554.9502, subsection 3, remains effective as a financing statement filed as a fixture filing until the mortgage is released or satisfied of record or its effectiveness otherwise terminates as to the real property.

Sec. 87. NEW SECTION. 554.9516 WHAT CONSTITUTES FILING — EFFECTIVENESS OF FILING.

1. WHAT CONSTITUTES FILING. Except as otherwise provided in subsection 2, communication of a record to a filing office and tender of the filing fee or acceptance of the record by the filing office constitutes filing.

2. REFUSAL TO ACCEPT RECORD — FILING DOES NOT OCCUR. Filing does not occur with respect to a record that a filing office refuses to accept because:

a. the record is not communicated by a method or medium of communication authorized by the filing office;

b. an amount equal to or greater than the applicable filing fee is not tendered;

c. the filing office is unable to index the record because:

(1) in the case of an initial financing statement, the record does not provide a name for the debtor;

(2) in the case of an amendment or correction statement, the record:

(a) does not identify the initial financing statement as required by section 554.9512 or 554.9518, as applicable; or

(b) identifies an initial financing statement whose effectiveness has lapsed under section 554.9515;

(3) in the case of an initial financing statement that provides the name of a debtor identified as an individual or an amendment that provides a name of a debtor identified as an individual which was not previously provided in the financing statement to which the record relates, the record does not identify the debtor's last name; or

(4) in the case of a record filed or recorded in the filing office described in section 554.9501, subsection 1, paragraph "a", the record does not provide a sufficient description of the real property to which it relates;

d. in the case of an initial financing statement or an amendment that adds a secured party of record, the record does not provide a name and mailing address for the secured party of record;

e. in the case of an initial financing statement or an amendment that provides a name of a debtor which was not previously provided in the financing statement to which the amendment relates, the record does not:

(1) provide a mailing address for the debtor;

(2) indicate whether the debtor is an individual or an organization; or

(3) if the financing statement indicates that the debtor is an organization, provide:

(a) a type of organization for the debtor;

(b) a jurisdiction of organization for the debtor; or

(c) an organizational identification number for the debtor or indicate that the debtor has none;

f. in the case of an assignment reflected in an initial financing statement under section 554.9514, subsection 1, or an amendment filed under section 554.9514, subsection 2, the record does not provide a name and mailing address for the assignee; or

g. in the case of a continuation statement, the record is not filed within the six-month period prescribed by section 554.9515, subsection 4.

3. RULES APPLICABLE TO SUBSECTION 2. For purposes of subsection 2:

a. a record does not provide information if the filing office is unable to read or decipher the information; and

b. a record that does not indicate that it is an amendment or identify an initial financing statement to which it relates, as required by section 554.9512, 554.9514, or 554.9518, is an initial financing statement.

4. REFUSAL TO ACCEPT RECORD — RECORD EFFECTIVE AS FILED RECORD. A record that is communicated to the filing office with tender of the filing fee, but which the filing office refuses to accept for a reason other than one set forth in subsection 2, is effective as a filed record except as against a purchaser of the collateral which gives value in reasonable reliance upon the absence of the record from the files.

Sec. 88. NEW SECTION. 554.9517 EFFECT OF INDEXING ERRORS.

The failure of the filing office to index a record correctly does not affect the effectiveness of the filed record.

Sec. 89. NEW SECTION. 554.9518 CLAIM CONCERNING INACCURATE OR WRONGFULLY FILED RECORD.

1. CORRECTION STATEMENT. A person may file in the filing office a correction statement with respect to a record indexed there under the person's name if the person believes that the record is inaccurate or was wrongfully filed.

2. SUFFICIENCY OF CORRECTION STATEMENT. A correction statement must:

a. identify the record to which it relates by:

(1) the file number assigned to the initial financing statement to which the record relates; and

(2) if the correction statement relates to a record filed or recorded in a filing office described in section 554.9501, subsection 1, paragraph "a", the date and time that the initial financing statement was filed or recorded and the information specified in section 554.9502, subsection 2;

b. indicate that it is a correction statement; and

c. provide the basis for the person's belief that the record is inaccurate and indicate the manner in which the person believes the record should be amended to cure any inaccuracy or provide the basis for the person's belief that the record was wrongfully filed.

3. RECORD NOT AFFECTED BY CORRECTION STATEMENT. The filing of a correction statement does not affect the effectiveness of an initial financing statement or other filed record.

B. DUTIES AND OPERATION OF FILING OFFICE

Sec. 90. NEW SECTION. 554.9519 NUMBERING, MAINTAINING, AND INDEXING RECORDS — COMMUNICATING INFORMATION PROVIDED IN RECORDS.

1. FILING OFFICE DUTIES. For each record filed in a filing office, the filing office shall:

a. assign a unique number to the filed record;

b. create a record that bears the number assigned to the filed record and the date and time of filing;

c. maintain the filed record for public inspection; and

d. index the filed record in accordance with subsections 3, 4, and 5.

2. FILE NUMBER. A file number assigned after January 1, 2002, must include a digit that:

a. is mathematically derived from or related to the other digits of the file number; and

b. aids the filing office in determining whether a number communicated as the file number includes a single-digit or transpositional error.

3. INDEXING — GENERAL. Except as otherwise provided in subsections 4 and 5, the filing office shall:

a. index an initial financing statement according to the name of the debtor and index all filed records relating to the initial financing statement in a manner that associates with one another an initial financing statement and all filed records relating to the initial financing statement; and

b. index a record that provides a name of a debtor which was not previously provided in the financing statement to which the record relates also according to the name that was not previously provided.

4. INDEXING — REAL-PROPERTY-RELATED FINANCING STATEMENT. If a financing statement is filed as a fixture filing or covers as-extracted collateral or timber to be cut, it must be filed for record and the filing office shall index it:

a. under the names of the debtor and of each owner of record shown on the financing statement as if they were the mortgagors under a mortgage of the real property described; and

b. to the extent that the law of this state provides for indexing of records of mortgages under the name of the mortgagee, under the name of the secured party as if the secured party were the mortgagee thereunder, or, if indexing is by description, as if the financing statement were a record of a mortgage of the real property described.

5. INDEXING — REAL-PROPERTY-RELATED ASSIGNMENT. If a financing statement is filed as a fixture filing or covers as-extracted collateral or timber to be cut, the filing office shall index an assignment filed under section 554.9514, subsection 1, or an amendment filed under section 554.9514, subsection 2:

a. under the name of the assignor as grantor; and

b. to the extent that the law of this state provides for indexing a record of the assignment of a mortgage under the name of the assignee, under the name of the assignee.

6. RETRIEVAL AND ASSOCIATION CAPABILITY. The filing office shall maintain a capability:

a. to retrieve a record by the name of the debtor and:

(1) if the filing office is described in section 554.9501, subsection 1, paragraph "a", by the file number assigned to the initial financing statement to which the record relates and the date and time that the record was filed or recorded; or

(2) if the filing office is described in section 554.9501, subsection 1, paragraph "b", by the file number assigned to the initial financing statement to which the record relates; and

b. to associate and retrieve with one another an initial financing statement and each filed record relating to the initial financing statement.

7. REMOVAL OF DEBTOR'S NAME. The filing office may not remove a debtor's name from the index until one year after the effectiveness of a financing statement naming the debtor lapses under section 554.9515 with respect to all secured parties of record.

8. TIMELINESS OF FILING OFFICE PERFORMANCE. The filing office shall perform the acts required by subsections 1 through 5 at the time and in the manner prescribed by filing-office rule, but not later than two business days after the filing office receives the record in question.

Sec. 91. NEW SECTION. 554.9520 ACCEPTANCE AND REFUSAL TO ACCEPT RECORD.

1. MANDATORY REFUSAL TO ACCEPT RECORD. A filing office shall refuse to accept a record for filing for a reason set forth in section 554.9516, subsection 2, and may refuse to accept a record for filing only for a reason set forth in section 554.9516, subsection 2.

2. COMMUNICATION CONCERNING REFUSAL. If a filing office refuses to accept a record for filing, it shall communicate to the person that presented the record the fact of and reason for the refusal and the date and time the record would have been filed had the filing office accepted it. The communication must be made at the time and in the manner prescribed by filing-office rule but in no event more than two business days after the filing office receives the record.

3. WHEN FILED FINANCING STATEMENT EFFECTIVE. A filed financing statement satisfying section 554.9502, subsections 1 and 2, is effective, even if the filing office is required to refuse to accept it for filing under subsection 1. However, section 554.9338 applies to a filed financing statement providing information described in section 554.9516, subsection 2, paragraph "e", which is incorrect at the time the financing statement is filed.

4. SEPARATE APPLICATION TO MULTIPLE DEBTORS. If a record communicated to a filing office provides information that relates to more than one debtor, this part applies as to each debtor separately.

Sec. 92. NEW SECTION. 554.9521 UNIFORM FORM OF WRITTEN FINANCING STATEMENT AND AMENDMENT.

1. INITIAL FINANCING STATEMENT FORM. A filing office that accepts written records may not refuse to accept a written initial financing statement in a form and format approved by the secretary of state by rule adopted pursuant to chapter 17A except for a reason set forth in section 554.9516, subsection 2. The forms shall be consistent with those set forth in the final official text of the 1999 revisions to Article 9 of the Uniform Commercial Code promulgated by the American law institute and the national conference of commissioners on uniform state laws.

2. AMENDMENT FORM. A filing office that accepts written records may not refuse to accept a written record in a form and format approved by the secretary of state by rule adopted pursuant to chapter 17A except for a reason set forth in section 554.9516, subsection 2. The forms shall be consistent with those set forth in the final official text of the 1999 revisions to Article 9 of the Uniform Commercial Code promulgated by the American law institute and the national conference of commissioners on uniform state laws.

Sec. 93. NEW SECTION. 554.9522 MAINTENANCE AND DESTRUCTION OF RECORDS.

1. POST-LAPSE MAINTENANCE AND RETRIEVAL OF INFORMATION. The filing office shall maintain a record of the information provided in a filed financing statement for at least one year after the effectiveness of the financing statement has lapsed under section 554.9515 with respect to all secured parties of record. The record must be retrievable by using the name of the debtor and:

a. if the record was filed or recorded in the filing office described in section 554.9501, subsection 1, paragraph "a", by using the file number assigned to the initial financing statement to which the record relates and the date and time that the record was filed or recorded; or

b. if the record was filed in the filing office described in section 554.9501, subsection 1, paragraph "b", by using the file number assigned to the initial financing statement to which the record relates.

2. DESTRUCTION OF WRITTEN RECORDS. Except to the extent that a statute governing disposition of public records provides otherwise, the filing office immediately may destroy any written record evidencing a financing statement. However, if the filing office destroys a written record, it shall maintain another record of the financing statement which complies with subsection 1.

Sec. 94. NEW SECTION. 554.9523 INFORMATION FROM FILING OFFICE — SALE OR LICENSE OF RECORDS.

1. ACKNOWLEDGMENT OF FILING WRITTEN RECORD. If a person that files a written record requests an acknowledgment of the filing, the filing office shall send to the person an image of the record showing the number assigned to the record pursuant to section 554.9519, subsection 1, paragraph "b", and the date and time of the filing of the record. However, if the person furnishes a copy of the record to the filing office, the filing office may instead:

a. note upon the copy the number assigned to the record pursuant to section 554.9519, subsection 1, paragraph "a", and the date and time of the filing of the record; and

b. send the copy to the person.

2. ACKNOWLEDGMENT OF FILING OTHER RECORD. If a person files a record other than a written record, the filing office shall communicate to the person an acknowledgment that provides:

a. the information in the record;

b. the number assigned to the record pursuant to section 554.9519, subsection 1, paragraph "a"; and

c. the date and time of the filing of the record.

3. COMMUNICATION OF REQUESTED INFORMATION. The filing office shall communicate or otherwise make available in a record the following information to any person that requests it:

a. whether there is on file on a date and time specified by the filing office, but not a date earlier than three business days before the filing office receives the request, any financing statement that:

(1) designates a particular debtor or, if the request so states, designates a particular debtor at the address specified in the request;

(2) has not lapsed under section 554.9515 with respect to all secured parties of record; and

(3) if the request so states, has lapsed under section 554.9515 and a record of which is maintained by the filing office under section 554.9522, subsection 1;

b. the date and time of filing of each financing statement; and

c. the information provided in each financing statement.

4. MEDIUM FOR COMMUNICATING INFORMATION. In complying with its duty under subsection 3, the filing office may communicate information in any medium. However, if requested, the filing office shall communicate information by issuing a record that can be admitted into evidence in the courts of this state without extrinsic evidence of its authenticity.

5. TIMELINESS OF FILING OFFICE PERFORMANCE. The filing office shall perform the acts required by subsections 1 through 4 at the time and in the manner prescribed by filing-office rule, but not later than two business days after the filing office receives the request.

6. PUBLIC AVAILABILITY OF RECORDS. At least weekly, the filing office shall offer to sell or license to the public on a nonexclusive basis, in bulk, copies of all records filed in it under this part, in every medium from time to time available to the filing office, as provided in chapter 22.

Sec. 95. NEW SECTION. 554.9524 DELAY BY FILING OFFICE.

Delay by the filing office beyond a time limit prescribed by this part is excused if:

1. the delay is caused by interruption of communication or computer facilities, war, emergency conditions, failure of equipment, or other circumstances beyond control of the filing office; and

2. the filing office exercises reasonable diligence under the circumstances.

Sec. 96. NEW SECTION. 554.9525 FEES.

1. INITIAL FINANCING STATEMENT OR OTHER RECORD — GENERAL RULE. Except as otherwise provided in subsection 5, fees for services rendered by the filing office under this part must be set by rules adopted by the secretary of state's office for services for that office. The rule must set the fees for filing and indexing a record under this part on the following basis:

a. if a record presented for filing is communicated to the filing office in writing and consists of more than two pages, the fee for filing and indexing the record must be at least twice the amount of the fee for a record communicated in writing that consists of one or two pages; and

b. if the record is communicated by another medium authorized by the secretary of state's office, the fee must be no more than half the amount of the fee for a record communicated in writing that consists of one or two pages.

3.[1] NUMBER OF NAMES. The number of names required to be indexed does not affect the amount of the fee in subsections 1 and 2.

4. RESPONSE TO INFORMATION REQUEST. A rule or ordinance adopted pursuant to subsection 1 must set the fee for responding to a request for information from the filing office, including for communicating whether there is on file any financing statement naming a particular debtor. A fee for responding to a request communicated in writing must be not less than twice the amount of the fee for responding to a request communicated by another medium authorized by the office of secretary of state or the board of supervisors for the filing office where its filing office is located.

5. RECORD OF MORTGAGE. This section does not require a fee with respect to a record of a mortgage which is effective as a financing statement filed as a fixture filing or as a financing statement covering as-extracted collateral or timber to be cut under section 554.9502, subsection 3. However, the recording and satisfaction fees that otherwise would be applicable to the record of the mortgage apply.

Sec. 97. NEW SECTION. 554.9526 FILING-OFFICE RULES.

1. ADOPTION OF FILING-OFFICE RULES. The office of secretary of state shall adopt and publish rules to implement this Article. The filing-office rules must be:

a. consistent with this Article; and

b. adopted and published in accordance with chapter 17A.

2. HARMONIZATION OF RULES. To keep the filing-office rules and practices of the filing office in harmony with the rules and practices of filing offices in other jurisdictions that enact substantially this part, and to keep the technology used by the filing office compatible with the technology used by filing offices in other jurisdictions that enact substantially this part, the office of secretary of state, so far as is consistent with the purposes, policies, and provisions of this Article, in adopting, amending, and repealing filing-office rules, shall:

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[1] According to enrolled Act

a. consult with filing offices in other jurisdictions that enact substantially this part; and

b. consult the most recent version of the Model Rules promulgated by the International Association of Corporate Administrators or any successor organization; and

c. take into consideration the rules and practices of, and the technology used by, filing offices in other jurisdictions that enact substantially this part.

Sec. 98. NEW SECTION. 554.9527 DUTY TO REPORT.

The office of secretary of state shall report annually on or before December 31 to the governor on the operation of the filing office. The report must contain a statement of the extent to which:

1. the filing-office rules are not in harmony with the rules of filing offices in other jurisdictions that enact substantially this part and the reasons for these variations; and

2. the filing-office rules are not in harmony with the most recent version of the Model Rules promulgated by the International Association of Corporate Administrators, or any successor organization, and the reasons for these variations.

PART 6
DEFAULT
A. DEFAULT AND ENFORCEMENT OF SECURITY INTEREST

Sec. 99. NEW SECTION. 554.9601 RIGHTS AFTER DEFAULT — JUDICIAL ENFORCEMENT — CONSIGNOR OR BUYER OF ACCOUNTS, CHATTEL PAPER, PAYMENT INTANGIBLES, OR PROMISSORY NOTES.

1. RIGHTS OF SECURED PARTY AFTER DEFAULT. After default, a secured party has the rights provided in this part and, except as otherwise provided in section 554.9602, those provided by agreement of the parties. A secured party:

a. may reduce a claim to judgment, foreclose, or otherwise enforce the claim, security interest, or agricultural lien by any available judicial procedure; and

b. if the collateral is documents, may proceed either as to the documents or as to the goods they cover.

2. RIGHTS AND DUTIES OF SECURED PARTY IN POSSESSION OR CONTROL. A secured party in possession of collateral or control of collateral under section 554.9104, 554.9105, 554.9106, or 554.9107 has the rights and duties provided in section 554.9207.

3. RIGHTS CUMULATIVE — SIMULTANEOUS EXERCISE. The rights under subsections 1 and 2 are cumulative and may be exercised simultaneously.

4. RIGHTS OF DEBTOR AND OBLIGOR. Except as otherwise provided in subsection 7 and section 554.9605, after default, a debtor and an obligor have the rights provided in this part and by agreement of the parties.

5. LIEN OF LEVY AFTER JUDGMENT. If a secured party has reduced its claim to judgment, the lien of any levy that may be made upon the collateral by virtue of an execution based upon the judgment relates back to the earliest of:

a. the date of perfection of the security interest or agricultural lien in the collateral;

b. the date of filing a financing statement covering the collateral; or

c. any date specified in a statute under which the agricultural lien was created.

6. EXECUTION SALE. A sale pursuant to an execution is a foreclosure of the security interest or agricultural lien by judicial procedure within the meaning of this section. A secured party may purchase at the sale and thereafter hold the collateral free of any other requirements of this Article.

7. CONSIGNOR OR BUYER OF CERTAIN RIGHTS TO PAYMENT. Except as otherwise provided in section 554.9607, subsection 3, this part imposes no duties upon a secured party that is a consignor or is a buyer of accounts, chattel paper, payment intangibles, or promissory notes.

Sec. 100. NEW SECTION. 554.9602 WAIVER AND VARIANCE OF RIGHTS AND DUTIES.

Except as otherwise provided in section 554.9624, to the extent that they give rights to a debtor or obligor and impose duties on a secured party, the debtor or obligor may not waive or vary the rules stated in the following listed sections:

1. section 554.9207, subsection 2, paragraph "d", subparagraph (3), which deals with use and operation of the collateral by the secured party;

2. section 554.9210, which deals with requests for an accounting and requests concerning a list of collateral and statement of account;

3. section 554.9607, subsection 3, which deals with collection and enforcement of collateral;

4. section 554.9608, subsection 1, and section 554.9615, subsection 3, to the extent that they deal with application or payment of noncash proceeds of collection, enforcement, or disposition;

5. section 554.9608, subsection 1, and section 554.9615, subsection 4, to the extent that they require accounting for or payment of surplus proceeds of collateral;

6. section 554.9609 to the extent that it imposes upon a secured party that takes possession of collateral without judicial process the duty to do so without breach of the peace;

7. section 554.9610, subsection 2, and sections 554.9611, 554.9613, and 554.9614, which deal with disposition of collateral;

8. section 554.9615, subsection 6, which deals with calculation of a deficiency or surplus when a disposition is made to the secured party, a person related to the secured party, or a secondary obligor;

9. section 554.9616, which deals with explanation of the calculation of a surplus or deficiency;

10. sections 554.9620, 554.9621, and 554.9622, which deal with acceptance of collateral in satisfaction of obligation;

11. section 554.9623, which deals with redemption of collateral;

12. section 554.9624, which deals with permissible waivers; and

13. sections 554.9625 and 554.9626, which deal with the secured party's liability for failure to comply with this Article.

Sec. 101. NEW SECTION. 554.9603 AGREEMENT ON STANDARDS CONCERNING RIGHTS AND DUTIES.

1. AGREED STANDARDS. The parties may determine by agreement the standards measuring the fulfillment of the rights of a debtor or obligor and the duties of a secured party under a rule stated in section 554.9602 if the standards are not manifestly unreasonable.

2. AGREED STANDARDS INAPPLICABLE TO BREACH OF PEACE. Subsection 1 does not apply to the duty under section 554.9609 to refrain from breaching the peace.

Sec. 102. NEW SECTION. 554.9604 PROCEDURE IF SECURITY AGREEMENT COVERS REAL PROPERTY OR FIXTURES.

1. ENFORCEMENT — PERSONAL AND REAL PROPERTY. If a security agreement covers both personal and real property, a secured party may proceed:

a. under this part as to the personal property without prejudicing any rights with respect to the real property; or

b. as to both the personal property and the real property in accordance with the rights with respect to the real property, in which case the other provisions of this part do not apply.

2. ENFORCEMENT — FIXTURES. Subject to subsection 3, if a security agreement covers goods that are or become fixtures, a secured party may proceed:

a. under this part; or

b. in accordance with the rights with respect to real property, in which case the other provisions of this part do not apply.

3. REMOVAL OF FIXTURES. Subject to the other provisions of this part, if a secured party holding a security interest in fixtures has priority over all owners and encumbrancers of the real property, the secured party, after default, may remove the collateral from the real property.

4. INJURY CAUSED BY REMOVAL. A secured party that removes collateral shall promptly reimburse any encumbrancer or owner of the real property, other than the debtor, for the cost of repair of any physical injury caused by the removal. The secured party need not reimburse the encumbrancer or owner for any diminution in value of the real property caused by the absence of the goods removed or by any necessity of replacing them. A person entitled to reimbursement may refuse permission to remove until the secured party gives adequate assurance for the performance of the obligation to reimburse.

Sec. 103. NEW SECTION. 554.9605 UNKNOWN DEBTOR OR SECONDARY OBLIGOR.

A secured party does not owe a duty based on its status as secured party:

1. to a person that is a debtor or obligor, unless the secured party knows:

a. that the person is a debtor or obligor;

b. the identity of the person; and

c. how to communicate with the person; or

2. to a secured party or lienholder that has filed a financing statement against a person, unless the secured party knows:

a. that the person is a debtor; and

b. the identity of the person.

Sec. 104. NEW SECTION. 554.9606 TIME OF DEFAULT FOR AGRICULTURAL LIEN.

For purposes of this part, a default occurs in connection with an agricultural lien at the time the secured party becomes entitled to enforce the lien in accordance with the statute under which it was created.

Sec. 105. NEW SECTION. 554.9607 COLLECTION AND ENFORCEMENT BY SECURED PARTY.

1. COLLECTION AND ENFORCEMENT GENERALLY. If so agreed, and in any event after default, a secured party:

a. may notify an account debtor or other person obligated on collateral to make payment or otherwise render performance to or for the benefit of the secured party;

b. may take any proceeds to which the secured party is entitled under section 554.9315;

c. may enforce the obligations of an account debtor or other person obligated on collateral and exercise the rights of the debtor with respect to the obligation of the account debtor or other person obligated on collateral to make payment or otherwise render performance to the debtor, and with respect to any property that secures the obligations of the account debtor or other person obligated on the collateral;

d. if it holds a security interest in a deposit account perfected by control under section 554.9104, subsection 1, paragraph "a", may apply the balance of the deposit account to the obligation secured by the deposit account; and

e. if it holds a security interest in a deposit account perfected by control under section 554.9104, subsection 1, paragraph "b" or "c", may instruct the bank to pay the balance of the deposit account to or for the benefit of the secured party.

2. NONJUDICIAL ENFORCEMENT OF MORTGAGE. If necessary to enable a secured party to exercise under subsection 1, paragraph "c", the right of a debtor to enforce a mortgage nonjudicially, the secured party may record in the office in which a record of the mortgage is recorded:

a. a copy of the security agreement that creates or provides for a security interest in the obligation secured by the mortgage; and

b. the secured party's sworn affidavit in recordable form stating that:

(1) a default has occurred; and

(2) the secured party is entitled to enforce the mortgage nonjudicially.

3. COMMERCIALLY REASONABLE COLLECTION AND ENFORCEMENT. A secured party shall proceed in a commercially reasonable manner if the secured party:

a. undertakes to collect from or enforce an obligation of an account debtor or other person obligated on collateral; and

b. is entitled to charge back uncollected collateral or otherwise to full or limited recourse against the debtor or a secondary obligor.

4. EXPENSES OF COLLECTION AND ENFORCEMENT. A secured party may deduct from the collections made pursuant to subsection 3 reasonable expenses of collection and enforcement, including reasonable attorney's fees and legal expenses incurred by the secured party.

5. DUTIES TO SECURED PARTY NOT AFFECTED. This section does not determine whether an account debtor, bank, or other person obligated on collateral owes a duty to a secured party.

Sec. 106. NEW SECTION. 554.9608 APPLICATION OF PROCEEDS OF COLLECTION OR ENFORCEMENT — LIABILITY FOR DEFICIENCY AND RIGHT TO SURPLUS.

1. APPLICATION OF PROCEEDS, SURPLUS, AND DEFICIENCY IF OBLIGATION SECURED. If a security interest or agricultural lien secures payment or performance of an obligation, the following rules apply:

a. a secured party shall apply or pay over for application the cash proceeds of collection or enforcement under section 554.9607 in the following order to:

(1) the reasonable expenses of collection and enforcement and, to the extent provided for by agreement and not prohibited by law, reasonable attorney's fees and legal expenses incurred by the secured party;

(2) the satisfaction of obligations secured by the security interest or agricultural lien under which the collection or enforcement is made; and

(3) the satisfaction of obligations secured by any subordinate security interest in or other lien on the collateral subject to the security interest or agricultural lien under which the collection or enforcement is made if the secured party receives an authenticated demand for proceeds before distribution of the proceeds is completed.

b. if requested by a secured party, a holder of a subordinate security interest or other lien shall furnish reasonable proof of the interest or lien within a reasonable time. Unless the holder complies, the secured party need not comply with the holder's demand under paragraph "a", subparagraph (3).

c. a secured party need not apply or pay over for application noncash proceeds of collection and enforcement under section 554.9607 unless the failure to do so would be commercially unreasonable. A secured party that applies or pays over for application noncash proceeds shall do so in a commercially reasonable manner.

d. a secured party shall account to and pay a debtor for any surplus, and the obligor is liable for any deficiency.

2. NO SURPLUS OR DEFICIENCY IN SALES OF CERTAIN RIGHTS TO PAYMENT. If the underlying transaction is a sale of accounts, chattel paper, payment intangibles, or promissory notes, the debtor is not entitled to any surplus, and the obligor is not liable for any deficiency.

Sec. 107. NEW SECTION. 554.9609 SECURED PARTY'S RIGHT TO TAKE POSSESSION AFTER DEFAULT.

1. POSSESSION — RENDERING EQUIPMENT UNUSABLE — DISPOSITION ON DEBTOR'S PREMISES. After default, a secured party:

a. may take possession of the collateral; and

b. without removal, may render equipment unusable and dispose of collateral on a debtor's premises under section 554.9610.

2. JUDICIAL AND NONJUDICIAL PROCESS. A secured party may proceed under subsection 1:

a. pursuant to judicial process; or

b. without judicial process, if it proceeds without breach of the peace.

3. ASSEMBLY OF COLLATERAL. If so agreed, and in any event after default, a secured party may require the debtor to assemble the collateral and make it available to the secured party at a place to be designated by the secured party which is reasonably convenient to both parties.

Sec. 108. NEW SECTION. 554.9610 DISPOSITION OF COLLATERAL AFTER DEFAULT.

1. DISPOSITION AFTER DEFAULT. After default, a secured party may sell, lease, license, or otherwise dispose of any or all of the collateral in its present condition or following any commercially reasonable preparation or processing.

2. COMMERCIALLY REASONABLE DISPOSITION. Every aspect of a disposition of collateral, including the method, manner, time, place, and other terms, must be commercially reasonable. If commercially reasonable, a secured party may dispose of collateral by public or private proceedings, by one or more contracts, as a unit or in parcels, and at any time and place and on any terms.

3. PURCHASE BY SECURED PARTY. A secured party may purchase collateral:

a. at a public disposition; or

b. at a private disposition only if the collateral is of a kind that is customarily sold on a recognized market or the subject of widely distributed standard price quotations.

4. WARRANTIES ON DISPOSITION. A contract for sale, lease, license, or other disposition includes the warranties relating to title, possession, quiet enjoyment, and the like which by operation of law accompany a voluntary disposition of property of the kind subject to the contract.

5. DISCLAIMER OF WARRANTIES. A secured party may disclaim or modify warranties under subsection 4:

a. in a manner that would be effective to disclaim or modify the warranties in a voluntary disposition of property of the kind subject to the contract of disposition; or

b. by communicating to the purchaser a record evidencing the contract for disposition and including an express disclaimer or modification of the warranties.

6. RECORD SUFFICIENT TO DISCLAIM WARRANTIES. A record is sufficient to disclaim warranties under subsection 5 if it indicates "There is no warranty relating to title, possession, quiet enjoyment, or the like in this disposition" or uses words of similar import.

Sec. 109. NEW SECTION. 554.9611 NOTIFICATION BEFORE DISPOSITION OF COLLATERAL.

1. NOTIFICATION DATE. In this section, "notification date" means the earlier of the date on which:

a. a secured party sends to the debtor and any secondary obligor an authenticated notification of disposition; or

b. the debtor and any secondary obligor waive the right to notification.

2. NOTIFICATION OF DISPOSITION REQUIRED. Except as otherwise provided in subsection 4, a secured party that disposes of collateral under section 554.9610 shall send to the persons specified in subsection 3 a reasonable authenticated notification of disposition.

3. PERSONS TO BE NOTIFIED. To comply with subsection 2, the secured party shall send an authenticated notification of disposition to:

a. the debtor;

b. any secondary obligor; and

c. if the collateral is other than consumer goods:

(1) any other person from which the secured party has received, before the notification date, an authenticated notification of a claim of an interest in the collateral;

(2) any other secured party or lienholder that, ten days before the notification date, held a security interest in or other lien on the collateral perfected by the filing of a financing statement that:

(a) identified the collateral;

(b) was indexed under the debtor's name as of that date; and

(c) was filed in the office in which to file a financing statement against the debtor covering the collateral as of that date; and

(3) any other secured party that, ten days before the notification date, held a security interest in the collateral perfected by compliance with a statute, regulation, or treaty described in section 554.9311, subsection 1.

4. SUBSECTION 2 INAPPLICABLE — PERISHABLE COLLATERAL — RECOGNIZED MARKET. Subsection 2 does not apply if the collateral is perishable or threatens to decline speedily in value or is of a type customarily sold on a recognized market.

5. COMPLIANCE WITH SUBSECTION 3, PARAGRAPH "C", SUBPARAGRAPH (2). A secured party complies with the requirement for notification prescribed by subsection 3, paragraph "c", subparagraph (2), if:

a. not later than twenty days or earlier than thirty days before the notification date, the secured party requests, in a commercially reasonable manner, information concerning financing statements indexed under the debtor's name in the office indicated in subsection 3, paragraph "c", subparagraph (2); and

b. before the notification date, the secured party:

(1) did not receive a response to the request for information; or

(2) received a response to the request for information and sent an authenticated notification of disposition to each secured party or other lienholder named in that response whose financing statement covered the collateral.

Sec. 110. NEW SECTION. 554.9612 TIMELINESS OF NOTIFICATION BEFORE DISPOSITION OF COLLATERAL.

1. REASONABLE TIME IS QUESTION OF FACT. Except as otherwise provided in subsection 2, whether a notification is sent within a reasonable time is a question of fact.

2. TEN-DAY PERIOD SUFFICIENT IN NONCONSUMER TRANSACTION. In a transaction other than a consumer transaction, a notification of disposition sent after default and ten days or more before the earliest time of disposition set forth in the notification is sent within a reasonable time before the disposition.

Sec. 111. NEW SECTION. 554.9613 CONTENTS AND FORM OF NOTIFICATION BEFORE DISPOSITION OF COLLATERAL — GENERAL.

Except in a consumer-goods transaction, the following rules apply:

1. The contents of a notification of disposition are sufficient if the notification:

a. describes the debtor and the secured party;

b. describes the collateral that is the subject of the intended disposition;

c. states the method of intended disposition;

d. states that the debtor is entitled to an accounting of the unpaid indebtedness and states the charge, if any, for an accounting; and

e. states the time and place of a public disposition or the time after which any other disposition is to be made.

2. Whether the contents of a notification that lacks any of the information specified in subsection 1 are nevertheless sufficient is a question of fact.

3. The contents of a notification providing substantially the information specified in subsection 1 are sufficient, even if the notification includes:

a. information not specified by that subsection; or

b. minor errors that are not seriously misleading.

4. A particular phrasing of the notification is not required.

5. The following form of notification and the form appearing in section 554.9614, subsection 3, when completed, each provides sufficient information:

NOTIFICATION OF DISPOSITION OF COLLATERAL

To: [name of debtor, obligor, or other person to which the notification is sent]

From: [name, address, and telephone number of secured party]

Name of Debtor(s): [include only if debtor(s) are not an addressee]

[for a public disposition:]

We will sell [or lease or license, as applicable] the [describe collateral] [to the highest qualified bidder] in public as follows:

Day and Date: _____

Time: _____

Place: _____

[for a private disposition:]

We will sell [or lease or license, as applicable] the [describe collateral] privately sometime after [day and date].

You are entitled to an accounting of the unpaid indebtedness secured by the property that we intend to sell [or lease or license, as applicable] [for a charge of _____ dollars]. You may request an accounting by calling us at [telephone number].

Sec. 112. NEW SECTION. 554.9614 CONTENTS AND FORM OF NOTIFICATION BEFORE DISPOSITION OF COLLATERAL — CONSUMER-GOODS TRANSACTION.

In a consumer-goods transaction, the following rules apply:

1. A notification of disposition must provide the following information:

a. the information specified in section 554.9613, subsection 1;

b. a description of any liability for a deficiency of the person to which the notification is sent;

c. a telephone number from which the amount that must be paid to the secured party to redeem the collateral under section 554.9623 is available; and

d. a telephone number or mailing address from which additional information concerning the disposition and the obligation secured is available.

2. A particular phrasing of the notification is not required.

3. The following form of notification, when completed, provides sufficient information:

[name and address of secured party]

[date]

NOTICE OF OUR PLAN TO SELL PROPERTY

[name and address of any obligor who is also a debtor]

Subject: [identification of transaction]

We have your [describe collateral], because you broke promises in our agreement.

[for a public disposition:]

We will sell [describe collateral] at public sale. A sale could include a lease or license. The sale will be held as follows:

Date: _____

Time: _____

Place: _____

You may attend the sale and bring bidders if you want.

[for a private disposition:]

We will sell [describe collateral] at private sale sometime after [date]. A sale could include a lease or license.

The money that we get from the sale (after paying our costs) will reduce the amount you owe. If we get less money than you owe, you [will or will not, as applicable] still owe us the difference. If we get more money than you owe, you will get the extra money, unless we must pay it to someone else.

You can get the property back at any time before we sell it by paying us the full amount you owe (not just the past due payments), including our expenses. To learn the exact amount you must pay, call us at [telephone number].

If you want us to explain to you in writing how we have figured the amount that you owe us, you may call us at [telephone number] [or write us at [secured party's address]] and request a written explanation. [We will charge you _____ for the explanation if we sent you another written explanation of the amount you owe us within the last six months.]

If you need more information about the sale call us at [telephone number] [or write us at [secured party's address]].

We are sending this notice to the following other people who have an interest in [describe collateral] or who owe money under your agreement:

[names of all other debtors and obligors, if any]

4. A notification in the form of subsection 3 is sufficient, even if additional information appears at the end of the form.

5. A notification in the form of subsection 3 is sufficient, even if it includes errors in information not required by subsection 1, unless the error is misleading with respect to rights arising under this Article.

6. If a notification under this section is not in the form of subsection 3, law other than this Article determines the effect of including information not required by subsection 1.

Sec. 113. NEW SECTION. 554.9615 APPLICATION OF PROCEEDS OF DISPOSITION — LIABILITY FOR DEFICIENCY AND RIGHT TO SURPLUS.

1. APPLICATION OF PROCEEDS. A secured party shall apply or pay over for application the cash proceeds of disposition under section 554.9610 in the following order to:

a. the reasonable expenses of retaking, holding, preparing for disposition, processing, and disposing, and, to the extent provided for by agreement and not prohibited by law, reasonable attorney's fees and legal expenses incurred by the secured party;

b. the satisfaction of obligations secured by the security interest or agricultural lien under which the disposition is made;

c. the satisfaction of obligations secured by any subordinate security interest in or other subordinate lien on the collateral if:

(1) the secured party receives from the holder of the subordinate security interest or other lien an authenticated demand for proceeds before distribution of the proceeds is completed; and

(2) in a case in which a consignor has an interest in the collateral, the subordinate security interest or other lien is senior to the interest of the consignor; and

d. a secured party that is a consignor of the collateral if the secured party receives from the consignor an authenticated demand for proceeds before distribution of the proceeds is completed.

2. PROOF OF SUBORDINATE INTEREST. If requested by a secured party, a holder of a subordinate security interest or other lien shall furnish reasonable proof of the interest or lien within a reasonable time. Unless the holder does so, the secured party need not comply with the holder's demand under subsection 1, paragraph "c".

3. APPLICATION OF NONCASH PROCEEDS. A secured party need not apply or pay over for application noncash proceeds of disposition under section 554.9610 unless the failure to do so would be commercially unreasonable. A secured party that applies or pays over for application noncash proceeds shall do so in a commercially reasonable manner.

4. SURPLUS OR DEFICIENCY IF OBLIGATION SECURED. If the security interest under which a disposition is made secures payment or performance of an obligation, after making the payments and applications required by subsection 1 and permitted by subsection 3:

a. unless subsection 1, paragraph "d", requires the secured party to apply or pay over cash proceeds to a consignor, the secured party shall account to and pay a debtor for any surplus; and

b. the obligor is liable for any deficiency.

5. NO SURPLUS OR DEFICIENCY IN SALES OF CERTAIN RIGHTS TO PAYMENT. If the underlying transaction is a sale of accounts, chattel paper, payment intangibles, or promissory notes:

a. the debtor is not entitled to any surplus; and

b. the obligor is not liable for any deficiency.

6. CALCULATION OF SURPLUS OR DEFICIENCY IN DISPOSITION TO PERSON RELATED TO SECURED PARTY. The surplus or deficiency following a disposition is calculated based on the amount of proceeds that would have been realized in a disposition complying with this part to a transferee other than the secured party, a person related to the secured party, or a secondary obligor if:

a. the transferee in the disposition is the secured party, a person related to the secured party, or a secondary obligor; and

b. the amount of proceeds of the disposition is significantly below the range of proceeds that a complying disposition to a person other than the secured party, a person related to the secured party, or a secondary obligor would have brought.

7. CASH PROCEEDS RECEIVED BY JUNIOR SECURED PARTY. A secured party that receives cash proceeds of a disposition in good faith and without knowledge that the receipt violates the rights of the holder of a security interest or other lien that is not subordinate to the security interest or agricultural lien under which the disposition is made:

a. takes the cash proceeds free of the security interest or other lien;

b. is not obligated to apply the proceeds of the disposition to the satisfaction of obligations secured by the security interest or other lien; and

c. is not obligated to account to or pay the holder of the security interest or other lien for any surplus.

Sec. 114. NEW SECTION. 554.9616 EXPLANATION OF CALCULATION OF SURPLUS OR DEFICIENCY.

1. DEFINITIONS. In this section:

a. "Explanation" means a writing that:

(1) states the amount of the surplus or deficiency;

(2) provides an explanation in accordance with subsection 3 of how the secured party calculated the surplus or deficiency;

(3) states, if applicable, that future debits, credits, charges, including additional credit service charges or interest, rebates, and expenses may affect the amount of the surplus or deficiency; and

(4) provides a telephone number or mailing address from which additional information concerning the transaction is available.

b. "Request" means a record:

(1) authenticated by a debtor or consumer obligor;

(2) requesting that the recipient provide an explanation; and

(3) sent after disposition of the collateral under section 554.9610.

2. EXPLANATION OF CALCULATION. In a consumer-goods transaction in which the debtor is entitled to a surplus or a consumer obligor is liable for a deficiency under section 554.9615, the secured party shall:

a. send an explanation to the debtor or consumer obligor, as applicable, after the disposition and:

(1) before or when the secured party accounts to the debtor and pays any surplus or first makes written demand on the consumer obligor after the disposition for payment of the deficiency; and

(2) within fourteen days after receipt of a request; or

b. in the case of a consumer obligor who is liable for a deficiency, within fourteen days after receipt of a request, send to the consumer obligor a record waiving the secured party's right to a deficiency.

3. REQUIRED INFORMATION. To comply with subsection 1, paragraph "a", subparagraph (2), a writing must provide the following information in the following order:

a. the aggregate amount of obligations secured by the security interest under which the disposition was made, and, if the amount reflects a rebate of unearned interest or credit service charge, an indication of that fact, calculated as of a specified date:

(1) if the secured party takes or receives possession of the collateral after default, not more than thirty-five days before the secured party takes or receives possession; or

(2) if the secured party takes or receives possession of the collateral before default or does not take possession of the collateral, not more than thirty-five days before the disposition;

b. the amount of proceeds of the disposition;

c. the aggregate amount of the obligations after deducting the amount of proceeds;

d. the amount, in the aggregate or by type, and types of expenses, including expenses of retaking, holding, preparing for disposition, processing, and disposing of the collateral, and attorney's fees secured by the collateral which are known to the secured party and relate to the current disposition;

e. the amount, in the aggregate or by type, and types of credits, including rebates of interest or credit service charges, to which the obligor is known to be entitled and which are not reflected in the amount in paragraph "a"; and

f. the amount of the surplus or deficiency.

4. SUBSTANTIAL COMPLIANCE. A particular phrasing of the explanation is not required. An explanation complying substantially with the requirements of subsection 1 is sufficient, even if it includes minor errors that are not seriously misleading.

5. CHARGES FOR RESPONSES. A debtor or consumer obligor is entitled without charge to one response to a request under this section during any six-month period in which the secured party did not send to the debtor or consumer obligor an explanation pursuant to subsection 2, paragraph "a". The secured party may require payment of a charge not exceeding twenty-five dollars for each additional response.

Sec. 115. NEW SECTION. 554.9617 RIGHTS OF TRANSFEREE OF COLLATERAL.

1. EFFECTS OF DISPOSITION. A secured party's disposition of collateral after default:

a. transfers to a transferee for value all of the debtor's rights in the collateral;

b. discharges the security interest under which the disposition is made; and

c. discharges any subordinate security interest or other subordinate lien.

2. RIGHTS OF GOOD-FAITH TRANSFEREE. A transferee that acts in good faith takes free of the rights and interests described in subsection 1, even if the secured party fails to comply with this Article or the requirements of any judicial proceeding.

3. RIGHTS OF OTHER TRANSFEREE. If a transferee does not take free of the rights and interests described in subsection 1, the transferee takes the collateral subject to:

a. the debtor's rights in the collateral;

b. the security interest or agricultural lien under which the disposition is made; and

c. any other security interest or other lien.

Sec. 116. NEW SECTION. 554.9618 RIGHTS AND DUTIES OF CERTAIN SECONDARY OBLIGORS.

1. RIGHTS AND DUTIES OF SECONDARY OBLIGOR. A secondary obligor acquires the rights and becomes obligated to perform the duties of the secured party after the secondary obligor:

a. receives an assignment of a secured obligation from the secured party;

b. receives a transfer of collateral from the secured party and agrees to accept the rights and assume the duties of the secured party; or

c. is subrogated to the rights of a secured party with respect to collateral.

2. EFFECT OF ASSIGNMENT, TRANSFER, OR SUBROGATION. An assignment, transfer, or subrogation described in subsection 1:

a. is not a disposition of collateral under section 554.9610; and

b. relieves the secured party of further duties under this Article.

Sec. 117. NEW SECTION. 554.9619 TRANSFER OF RECORD OR LEGAL TITLE.

1. TRANSFER STATEMENT. In this section, "transfer statement" means a record authenticated by a secured party stating:

a. that the debtor has defaulted in connection with an obligation secured by specified collateral;

b. that the secured party has exercised its post-default remedies with respect to the collateral;

c. that, by reason of the exercise, a transferee has acquired the rights of the debtor in the collateral; and

d. the name and mailing address of the secured party, debtor, and transferee.

2. EFFECT OF TRANSFER STATEMENT. A transfer statement entitles the transferee to the transfer of record of all rights of the debtor in the collateral specified in the statement in any official filing, recording, registration, or certificate-of-title system covering the collateral. If a transfer statement is presented with the applicable fee and request form to the official or office responsible for maintaining the system, the official or office shall:

a. accept the transfer statement;

b. promptly amend its records to reflect the transfer; and

c. if applicable, issue a new appropriate certificate of title in the name of the transferee.

3. TRANSFER NOT A DISPOSITION — NO RELIEF OF SECURED PARTY'S DUTIES. A transfer of the record or legal title to collateral to a secured party under subsection 2 or otherwise is not of itself a disposition of collateral under this Article and does not of itself relieve the secured party of its duties under this Article.

Sec. 118. NEW SECTION. 554.9620 ACCEPTANCE OF COLLATERAL IN FULL OR PARTIAL SATISFACTION OF OBLIGATION — COMPULSORY DISPOSITION OF COLLATERAL.

1. CONDITIONS TO ACCEPTANCE IN SATISFACTION. Except as otherwise provided in subsection 7, a secured party may accept collateral in full or partial satisfaction of the obligation it secures only if:

a. the debtor consents to the acceptance under subsection 3;

b. the secured party does not receive, within the time set forth in subsection 4, a notification of objection to the proposal authenticated by:

(1) a person to which the secured party was required to send a proposal under section 554.9621; or

(2) any other person, other than the debtor, holding an interest in the collateral subordinate to the security interest that is the subject of the proposal;

c. if the collateral is consumer goods, the collateral is not in the possession of the debtor when the debtor consents to the acceptance; and

d. subsection 5 does not require the secured party to dispose of the collateral or the debtor waives the requirement pursuant to section 554.9624.

2. PURPORTED ACCEPTANCE INEFFECTIVE. A purported or apparent acceptance of collateral under this section is ineffective unless:

a. the secured party consents to the acceptance in an authenticated record or sends a proposal to the debtor; and

b. the conditions of subsection 1 are met.

3. DEBTOR'S CONSENT. For purposes of this section:

a. a debtor consents to an acceptance of collateral in partial satisfaction of the obligation it secures only if the debtor agrees to the terms of the acceptance in a record authenticated after default; and

b. a debtor consents to an acceptance of collateral in full satisfaction of the obligation it secures only if the debtor agrees to the terms of the acceptance in a record authenticated after default or the secured party:

(1) sends to the debtor after default a proposal that is unconditional or subject only to a condition that collateral not in the possession of the secured party be preserved or maintained;

(2) in the proposal, proposes to accept collateral in full satisfaction of the obligation it secures; and

(3) does not receive a notification of objection authenticated by the debtor within twenty days after the proposal is sent.

4. EFFECTIVENESS OF NOTIFICATION. To be effective under subsection 1, paragraph "b", a notification of objection must be received by the secured party:

a. in the case of a person to which the proposal was sent pursuant to section 554.9621, within twenty days after notification was sent to that person; and

b. in other cases:

(1) within twenty days after the last notification was sent pursuant to section 554.9621; or

(2) if a notification was not sent, before the debtor consents to the acceptance under subsection 3.

5. MANDATORY DISPOSITION OF CONSUMER GOODS. A secured party that has taken possession of collateral shall dispose of the collateral pursuant to section 554.9610 within the time specified in subsection 6 if:

a. sixty percent of the cash price has been paid in the case of a purchase-money security interest in consumer goods; or

b. sixty percent of the principal amount of the obligation secured has been paid in the case of a non-purchase-money security interest in consumer goods.

6. COMPLIANCE WITH MANDATORY DISPOSITION REQUIREMENT. To comply with subsection 5, the secured party shall dispose of the collateral:

a. within ninety days after taking possession; or

b. within any longer period to which the debtor and all secondary obligors have agreed in an agreement to that effect entered into and authenticated after default.

7. NO PARTIAL SATISFACTION IN CONSUMER TRANSACTION. In a consumer transaction, a secured party may not accept collateral in partial satisfaction of the obligation it secures.

Sec. 119. NEW SECTION. 554.9621 NOTIFICATION OF PROPOSAL TO ACCEPT COLLATERAL.

1. PERSONS TO WHICH PROPOSAL TO BE SENT. A secured party that desires to accept collateral in full or partial satisfaction of the obligation it secures shall send its proposal to:

a. any person from which the secured party has received, before the debtor consented to the acceptance, an authenticated notification of a claim of an interest in the collateral;

b. any other secured party or lienholder that, ten days before the debtor consented to the acceptance, held a security interest in or other lien on the collateral perfected by the filing of a financing statement that:

(1) identified the collateral;

(2) was indexed under the debtor's name as of that date; and

(3) was filed in the office or offices in which to file a financing statement against the debtor covering the collateral as of that date; and

c. any other secured party that, ten days before the debtor consented to the acceptance, held a security interest in the collateral perfected by compliance with a statute, regulation, or treaty described in section 554.9311, subsection 1.

2. PROPOSAL TO BE SENT TO SECONDARY OBLIGOR IN PARTIAL SATISFACTION. A secured party that desires to accept collateral in partial satisfaction of the obligation it secures shall send its proposal to any secondary obligor in addition to the persons described in subsection 1.

Sec. 120. NEW SECTION. 554.9622 EFFECT OF ACCEPTANCE OF COLLATERAL.

1. EFFECT OF ACCEPTANCE. A secured party's acceptance of collateral in full or partial satisfaction of the obligation it secures:

a. discharges the obligation to the extent consented to by the debtor;

b. transfers to the secured party all of a debtor's rights in the collateral;

c. discharges the security interest or agricultural lien that is the subject of the debtor's consent and any subordinate security interest or other subordinate lien; and

d. terminates any other subordinate interest.

2. DISCHARGE OF SUBORDINATE INTEREST NOTWITHSTANDING NONCOMPLIANCE. A subordinate interest is discharged or terminated under subsection 1, even if the secured party fails to comply with this Article.

Sec. 121. NEW SECTION. 554.9623 RIGHT TO REDEEM COLLATERAL.

1. PERSONS THAT MAY REDEEM. A debtor, any secondary obligor, or any other secured party or lienholder may redeem collateral.

2. REQUIREMENTS FOR REDEMPTION. To redeem collateral, a person shall tender:

a. fulfillment of all obligations secured by the collateral; and

b. the reasonable expenses and attorney's fees described in section 554.9615, subsection 1, paragraph "a".

3. WHEN REDEMPTION MAY OCCUR. A redemption may occur at any time before a secured party:

a. has collected collateral under section 554.9607;

b. has disposed of collateral or entered into a contract for its disposition under section 554.9610; or

c. has accepted collateral in full or partial satisfaction of the obligation it secures under section 554.9622.

Sec. 122. NEW SECTION. 554.9624 WAIVER.

1. WAIVER OF DISPOSITION NOTIFICATION. A debtor or secondary obligor may waive the right to notification of disposition of collateral under section 554.9611 only by an agreement to that effect entered into and authenticated after default.

2. WAIVER OF MANDATORY DISPOSITION. A debtor may waive the right to require disposition of collateral under section 554.9620, subsection 5, only by an agreement to that effect entered into and authenticated after default.

3. WAIVER OF REDEMPTION RIGHT. Except in a consumer-goods transaction, a debtor or secondary obligor may waive the right to redeem collateral under section 554.9623 only by an agreement to that effect entered into and authenticated after default.

B. NONCOMPLIANCE WITH ARTICLE

Sec. 123. NEW SECTION. 554.9625 REMEDIES FOR SECURED PARTY'S FAILURE TO COMPLY WITH ARTICLE.

1. JUDICIAL ORDERS CONCERNING NONCOMPLIANCE. If it is established that a secured party is not proceeding in accordance with this Article, a court may order or restrain collection, enforcement, or disposition of collateral on appropriate terms and conditions.

2. DAMAGES FOR NONCOMPLIANCE. Subject to subsections 3, 4, and 6, a person is liable for damages in the amount of any loss caused by a failure to comply with this Article. Loss caused by a failure to comply may include loss resulting from the debtor's inability to obtain, or increased costs of, alternative financing.

3. PERSONS ENTITLED TO RECOVER DAMAGES — STATUTORY DAMAGES IN CONSUMER-GOODS TRANSACTION. Except as otherwise provided in section 554.9628:

a. a person that, at the time of the failure, was a debtor, was an obligor, or held a security interest in or other lien on the collateral may recover damages under subsection 2 for its loss; and

b. if the collateral is consumer goods, a person that was a debtor or a secondary obligor at the time a secured party failed to comply with this part may recover for that failure in any event an amount not less than the credit service charge plus ten percent of the principal amount of the obligation or the time-price differential plus ten percent of the cash price.

4. RECOVERY WHEN DEFICIENCY ELIMINATED OR REDUCED. A debtor whose deficiency is eliminated under section 554.9626 may recover damages for the loss of any surplus. However, a debtor or secondary obligor whose deficiency is eliminated or reduced under section 554.9626 may not otherwise recover under subsection 2 for noncompliance with the provisions of this part relating to collection, enforcement, disposition, or acceptance.

5. STATUTORY DAMAGES — NONCOMPLIANCE WITH SPECIFIED PROVISIONS. In addition to any damages recoverable under subsection 2, the debtor, consumer obligor, or person named as a debtor in a filed record, as applicable, may recover five hundred dollars in each case from a person that:

a. fails to comply with section 554.9208;

b. fails to comply with section 554.9209;

c. files a record that the person is not entitled to file under section 554.9509, subsection 1;

d. fails to cause the secured party of record to file or send a termination statement as required by section 554.9513, subsection 1 or 3;

e. fails to comply with section 554.9616, subsection 2, paragraph "a", and whose failure is part of a pattern, or consistent with a practice, of noncompliance; or

f. fails to comply with section 554.9616, subsection 2, paragraph "b".

6. STATUTORY DAMAGES — NONCOMPLIANCE WITH SECTION 554.9210. A debtor or consumer obligor may recover damages under subsection 2 and, in addition, five hundred dollars in each case from a person that, without reasonable cause, fails to comply with a request under section 554.9210. A recipient of a request under section 554.9210 which never claimed an interest in the collateral or obligations that are the subject of a request under that section has a reasonable excuse for failure to comply with the request within the meaning of this subsection.

7. LIMITATION OF SECURITY INTEREST — NONCOMPLIANCE WITH SECTION 554.9210. If a secured party fails to comply with a request regarding a list of collateral or a statement of account under section 554.9210, the secured party may claim a security interest only as shown in the list or statement included in the request as against a person that is reasonably misled by the failure.

Sec. 124. NEW SECTION. 554.9626 ACTION IN WHICH DEFICIENCY OR SURPLUS IS IN ISSUE.

1. APPLICABLE RULES IF AMOUNT OF DEFICIENCY OR SURPLUS IN ISSUE. In an action arising from a transaction, other than a consumer transaction, in which the amount of a deficiency or surplus is in issue, the following rules apply:

a. a secured party need not prove compliance with the provisions of this part relating to collection, enforcement, disposition, or acceptance unless the debtor or a secondary obligor places the secured party's compliance in issue.

b. if the secured party's compliance is placed in issue, the secured party has the burden of establishing that the collection, enforcement, disposition, or acceptance was conducted in accordance with this part.

c. except as otherwise provided in section 554.9628, if a secured party fails to prove that the collection, enforcement, disposition, or acceptance was conducted in accordance with the provisions of this part relating to collection, enforcement, disposition, or acceptance, the liability of a debtor or a secondary obligor for a deficiency is limited to an amount by which the sum of the secured obligation, expenses, and attorney's fees exceeds the greater of:

(1) the proceeds of the collection, enforcement, disposition, or acceptance; or

(2) the amount of proceeds that would have been realized had the noncomplying secured party proceeded in accordance with the provisions of this part relating to collection, enforcement, disposition, or acceptance.

d. for purposes of paragraph "c", subparagraph (2), the amount of proceeds that would have been realized is equal to the sum of the secured obligation, expenses, and attorney's fees unless the secured party proves that the amount is less than that sum.

e. if a deficiency or surplus is calculated under section 554.9615, subsection 6, the debtor or obligor has the burden of establishing that the amount of proceeds of the disposition is significantly below the range of prices that a complying disposition to a person other than the secured party, a person related to the secured party, or a secondary obligor would have brought.

2. NONCONSUMER TRANSACTIONS — NO INFERENCE. The limitation of the rules in subsection 1 to transactions other than consumer transactions is intended to leave to the court the determination of the proper rules in consumer transactions. The court may not infer from that limitation the nature of the proper rule in consumer transactions and may continue to apply established approaches.

Sec. 125. NEW SECTION. 554.9627 DETERMINATION OF WHETHER CONDUCT WAS COMMERCIALLY REASONABLE.

1. GREATER AMOUNT OBTAINABLE UNDER OTHER CIRCUMSTANCES — NO PRECLUSION OF COMMERCIAL REASONABLENESS. The fact that a greater amount could have been obtained by a collection, enforcement, disposition, or acceptance at a different time or in a different method from that selected by the secured party is not of itself sufficient to preclude the secured party from establishing that the collection, enforcement, disposition, or acceptance was made in a commercially reasonable manner.

2. DISPOSITIONS THAT ARE COMMERCIALLY REASONABLE. A disposition of collateral is made in a commercially reasonable manner if the disposition is made:

a. in the usual manner on any recognized market;

b. at the price current in any recognized market at the time of the disposition; or

c. otherwise in conformity with reasonable commercial practices among dealers in the type of property that was the subject of the disposition.

3. APPROVAL BY COURT OR ON BEHALF OF CREDITORS. A collection, enforcement, disposition, or acceptance is commercially reasonable if it has been approved:

a. in a judicial proceeding;

b. by a bona fide creditors' committee;

c. by a representative of creditors; or

d. by an assignee for the benefit of creditors.

4. APPROVAL UNDER SUBSECTION 3 NOT NECESSARY — ABSENCE OF APPROVAL HAS NO EFFECT. Approval under subsection 3 need not be obtained, and lack of approval does not mean that the collection, enforcement, disposition, or acceptance is not commercially reasonable.

Sec. 126. NEW SECTION. 554.9628 NONLIABILITY AND LIMITATION ON LIABILITY OF SECURED PARTY — LIABILITY OF SECONDARY OBLIGOR.

1. LIMITATION OF LIABILITY OF SECURED PARTY FOR NONCOMPLIANCE WITH ARTICLE. Unless a secured party knows that a person is a debtor or obligor, knows the identity of the person, and knows how to communicate with the person:

a. the secured party is not liable to the person, or to a secured party or lienholder that has filed a financing statement against the person, for failure to comply with this Article; and

b. the secured party's failure to comply with this Article does not affect the liability of the person for a deficiency.

2. LIMITATION OF LIABILITY BASED ON STATUS AS SECURED PARTY. A secured party is not liable because of its status as secured party:

a. to a person that is a debtor or obligor, unless the secured party knows:

(1) that the person is a debtor or obligor;

(2) the identity of the person; and

(3) how to communicate with the person; or

b. to a secured party or lienholder that has filed a financing statement against a person, unless the secured party knows:

(1) that the person is a debtor; and

(2) the identity of the person.

3. LIMITATION OF LIABILITY IF REASONABLE BELIEF THAT TRANSACTION NOT A CONSUMER-GOODS TRANSACTION OR CONSUMER TRANSACTION. A secured party is not liable to any person, and a person's liability for a deficiency is not affected, because of any act or omission arising out of the secured party's reasonable belief that a transaction is

not a consumer-goods transaction or a consumer transaction or that goods are not consumer goods, if the secured party's belief is based on its reasonable reliance on:

a. a debtor's representation concerning the purpose for which collateral was to be used, acquired, or held; or

b. an obligor's representation concerning the purpose for which a secured obligation was incurred.

4. LIMITATION OF LIABILITY FOR STATUTORY DAMAGES. A secured party is not liable to any person under section 554.9625, subsection 3, paragraph "b", for its failure to comply with section 554.9616.

5. LIMITATION OF MULTIPLE LIABILITY FOR STATUTORY DAMAGES. A secured party is not liable under section 554.9625, subsection 3, paragraph "b", more than once with respect to any one secured obligation.

PART 7
TRANSITION

Sec. 127. NEW SECTION. 554.9701 EFFECTIVE DATE.
This Article takes effect on July 1, 2001.

Sec. 128. NEW SECTION. 554.9702 SAVINGS CLAUSE.

1. PRE-EFFECTIVE-DATE TRANSACTIONS OR LIENS. Except as otherwise provided in this part, this Act applies to a transaction or lien within its scope, even if the transaction or lien was entered into or created before this Act takes effect.

2. CONTINUING VALIDITY. Except as otherwise provided in subsection 3 and sections 554.9703, 554.9704, 554.9705, 554.9706, 554.9707, 554.9708, and 554.9709:

a. transactions and liens that were not governed by former Article 9, were validly entered into or created before this Act takes effect, and would be subject to this Act if they had been entered into or created after this Act takes effect, and the rights, duties, and interests flowing from those transactions and liens remain valid after this Act takes effect; and

b. the transactions and liens may be terminated, completed, consummated, and enforced as required or permitted by this Act or by the law that otherwise would apply if this Act had not taken effect.

3. PRE-EFFECTIVE-DATE PROCEEDINGS. This Act does not affect an action, case, or proceeding commenced before this Act takes effect.

Sec. 129. NEW SECTION. 554.9703 SECURITY INTEREST PERFECTED BEFORE EFFECTIVE DATE.

1. CONTINUING PRIORITY OVER LIEN CREDITOR — PERFECTION REQUIREMENTS SATISFIED. A security interest that is enforceable immediately before this Act takes effect and would have priority over the rights of a person that becomes a lien creditor at that time is a perfected security interest under this Act if, when this Act takes effect, the applicable requirements for enforceability and perfection under this Act are satisfied without further action.

2. CONTINUING PRIORITY OVER LIEN CREDITOR — PERFECTION REQUIREMENTS NOT SATISFIED. Except as otherwise provided in section 554.9705, if, immediately before this Act takes effect, a security interest is enforceable and would have priority over the rights of a person that becomes a lien creditor at that time, but the applicable requirements for enforceability or perfection under this Act are not satisfied when this Act takes effect, the security interest:

a. is a perfected security interest for one year after this Act takes effect;

b. remains enforceable thereafter only if the security interest becomes enforceable under section 554.9203 before the year expires; and

c. remains perfected thereafter only if the applicable requirements for perfection under this Act are satisfied before the year expires.

Sec. 130. NEW SECTION. 554.9704 SECURITY INTEREST UNPERFECTED BEFORE EFFECTIVE DATE.

A security interest that is enforceable immediately before this Act takes effect but which would be subordinate to the rights of a person that becomes a lien creditor at that time:

1. remains an enforceable security interest for one year after this Act takes effect;

2. remains enforceable thereafter if the security interest becomes enforceable under section 554.9203 when this Act takes effect or within one year thereafter; and

3. becomes perfected:

a. without further action, when this Act takes effect if the applicable requirements for perfection under this Act are satisfied before or at that time; or

b. when the applicable requirements for perfection are satisfied if the requirements are satisfied after that time.

Sec. 131. NEW SECTION. 554.9705 EFFECTIVENESS OF ACTION TAKEN BEFORE EFFECTIVE DATE.

1. PRE-EFFECTIVE-DATE ACTION — ONE-YEAR PERFECTION PERIOD UNLESS REPERFECTED. If action, other than the filing of a financing statement, is taken before this Act takes effect and the action would have resulted in priority of a security interest over the rights of a person that becomes a lien creditor had the security interest become enforceable before this Act takes effect, the action is effective to perfect a security interest that attaches under this Act within one year after this Act takes effect. An attached security interest becomes unperfected one year after this Act takes effect unless the security interest becomes a perfected security interest under this Act before the expiration of that period.

2. PRE-EFFECTIVE-DATE FILING. The filing of a financing statement before this Act takes effect is effective to perfect a security interest to the extent the filing would satisfy the applicable requirements for perfection under this Act.

3. PRE-EFFECTIVE-DATE FILING IN JURISDICTION FORMERLY GOVERNING PERFECTION. This Act does not render ineffective an effective financing statement that, before this Act takes effect, is filed and satisfies the applicable requirements for perfection under the law of the jurisdiction governing perfection as provided in former section 554.9103. However, except as otherwise provided in subsections 4 and 5 and section 554.9706, the financing statement ceases to be effective at the earlier of:

a. the time the financing statement would have ceased to be effective under the law of the jurisdiction in which it is filed; or

b. June 30, 2006.

4. CONTINUATION STATEMENT. The filing of a continuation statement after this Act takes effect does not continue the effectiveness of the financing statement filed before this Act takes effect. However, upon the timely filing of a continuation statement after this Act takes effect and in accordance with the law of the jurisdiction governing perfection as provided in part 3, the effectiveness of a financing statement filed in the same office in that jurisdiction before this Act takes effect continues for the period provided by the law of that jurisdiction.

5. APPLICATION OF SUBSECTION 3, PARAGRAPH "b", TO TRANSMITTING UTILITY FINANCING STATEMENT. Subsection 3, paragraph "b", applies to a financing statement that, before this Act takes effect, is filed against a transmitting utility and satisfies the applicable requirements for perfection under the law of the jurisdiction governing perfection as provided in former section 554.9103 only to the extent that part 3 provides that the law of a jurisdiction other than the jurisdiction in which the financing statement is filed governs perfection of a security interest in collateral covered by the financing statement.

6. APPLICATION OF PART 5. A financing statement that includes a financing statement filed before this Act takes effect and a continuation statement filed after this Act takes effect is effective only to the extent that it satisfies the requirements of part 5 for an initial financing statement.

Sec. 132. NEW SECTION. 554.9706 WHEN INITIAL FINANCING STATEMENT SUFFICES TO CONTINUE EFFECTIVENESS OF FINANCING STATEMENT.

1. INITIAL FINANCING STATEMENT IN LIEU OF CONTINUATION STATEMENT. The filing of an initial financing statement in the office specified in section 554.9501 continues the effectiveness of a financing statement filed before this Act takes effect if:

a. the filing of an initial financing statement in that office would be effective to perfect a security interest under this Act;

b. the pre-effective-date financing statement was filed in an office in another state or another office in this state; and

c. the initial financing statement satisfies subsection 3.

2. PERIOD OF CONTINUED EFFECTIVENESS. The filing of an initial financing statement under subsection 1 continues the effectiveness of the pre-effective-date financing statement:

a. if the initial financing statement is filed before this Act takes effect, for the period provided in former section 554.9403 with respect to a financing statement; and

b. if the initial financing statement is filed after this Act takes effect, for the period provided in section 554.9515 with respect to an initial financing statement.

3. REQUIREMENTS FOR INITIAL FINANCING STATEMENT UNDER SUBSECTION 1. To be effective for purposes of subsection 1, an initial financing statement must:

a. satisfy the requirements of part 5 for an initial financing statement;

b. identify the pre-effective-date financing statement by indicating the office in which the financing statement was filed and providing the dates of filing and file numbers, if any, of the financing statement and of the most recent continuation statement filed with respect to the financing statement; and

c. indicate that the pre-effective-date financing statement remains effective.

Sec. 133. NEW SECTION. 554.9707 AMENDMENT OF PRE-EFFECTIVE-DATE FINANCING STATEMENT.

1. PRE-EFFECTIVE-DATE FINANCING STATEMENT. In this section, "pre-effective-date financing statement" means a financing statement filed before this Act takes effect.

2. APPLICABLE LAW. After this Act takes effect, a person may add or delete collateral covered by, continue or terminate the effectiveness of, or otherwise amend the information provided in, a pre-effective-date financing statement only in accordance with the law of the jurisdiction governing perfection as provided in part 3. However, the effectiveness of pre-effective-date financing statement also may be terminated in accordance with the law of the jurisdiction in which the financing statement is filed.

3. METHOD OF AMENDING — GENERAL RULE. Except as otherwise provided in subsection 4, if the law of this state governs perfection of a security interest, the information in a pre-effective-date financing statement may be amended after this Act takes effect only if:

a. The pre-effective-date financing statement and an amendment are filed in the office specified in section 554.9501; or

b. An amendment is filed in the office specified in section 554.9501 concurrently with, or after the filing in that office of, an initial financing statement that satisfies section 554.9706, subsection 3; or

c. An initial financing statement that provides the information as amended and satisfies section 554.9706, subsection 3 is filed in the office specified in section 554.9501.

4. METHOD OF AMENDING — CONTINUATION. If the law of this state governs perfection of a security interest, the effectiveness of a pre-effective-date financing statement may be continued only under section 554.9705, subsections 4 and 6 or section 554.9706.

5. METHOD OF AMENDING — ADDITIONAL TERMINATION RULE. Whether or not the law of this state governs perfection of a security interest, the effectiveness of a pre-effective-date financing statement filed in this state may be terminated after this Act takes effect by filing a termination statement in the office in which the pre-effective-date

financing statement is filed, unless an initial financing statement that satisfies section 554.9706, subsection 3, has been filed in the office specified by the law of the jurisdiction governing perfection as provided in part 3 as the office in which to file a financing statement.

Sec. 134. NEW SECTION. 554.9708 PERSONS ENTITLED TO FILE INITIAL FINANCING STATEMENT OR CONTINUATION STATEMENT.

A person may file an initial financing statement or a continuation statement under this part if:

1. the secured party of record authorizes the filing; and

2. the filing is necessary under this part:

a. to continue the effectiveness of a financing statement filed before this Act takes effect; or

b. to perfect or continue the perfection of a security interest.

Sec. 135. NEW SECTION. 554.9709 PRIORITY.

1. LAW GOVERNING PRIORITY. This Act determines the priority of conflicting claims to collateral. However, if the relative priorities of the claims were established before this Act takes effect, former Article 9 determines priority.

2. PRIORITY IF SECURITY INTEREST BECOMES ENFORCEABLE UNDER SECTION 554.9203. For purposes of section 554.9322, subsection 1, the priority of a security interest that becomes enforceable under section 554.9203 of this Act dates from the time this Act takes effect if the security interest is perfected under this Act by the filing of a financing statement before this Act takes effect which would not have been effective to perfect the security interest under former Article 9. This subsection does not apply to conflicting security interests each of which is perfected by the filing of such a financing statement.

Sec. 136. NEW SECTION. 554.9710 "FORMER" DEFINED.

References in this part to "former Article 9" or a former section are to that Article or section as in effect immediately before this Act takes effect.

DIVISION II
CONFORMING AMENDMENTS TO CODE CHAPTER 554

Sec. 137. Section 554.1105, subsection 2, Code 1999, is amended to read as follows:

2. Where 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 (including the conflict of laws rules) so specified:

Rights of creditors against sold goods. Section 554.2402.

Applicability of the Article on Bank Deposits and Collections. Section 554.4102.

Letters of Credit. Section 554.5116.

Applicability of the Article on Investment Securities. Section 554.8110.

~~Perfection provisions of the Article on Secured Transactions. Section 554.9103.~~

Law governing perfection, the effect of perfection or nonperfection, and the priority of security interests and agricultural liens. Sections 554.9301, 554.9302, 554.9303, 554.9304, 554.9305, 554.9306, and 554.9307.

Governing law in the Article on Funds Transfers. Section 554.12507.

Applicability of the Article on Leases. Sections 554.13105 and 554.13106.

Sec. 138. Section 554.1201, subsections 9 and 32, Code 1999, are amended to read as follows:

9. "Buyer in ordinary course of business" means a person ~~who~~ that buys goods in good faith, ~~and~~ without knowledge that the sale ~~to that person is in violation of~~ violates the ~~ownership~~ rights ~~or security interest~~ of ~~a third party~~ another person in the goods ~~buys~~, and in the ordinary course from a person, other than a pawnbroker, in the business of selling goods of that kind ~~but does not include a pawnbroker~~. ~~All persons who sell minerals or the~~

~~like (including oil and gas) at wellhead or minehead shall be deemed to be persons~~ 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. ~~"Buying"~~ A buyer in ordinary course of business may ~~be~~ buy for cash, ~~or~~ by exchange of other property, or on secured or unsecured credit, and ~~includes receiving~~ may acquire goods or documents of title under a pre-existing 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~~. 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 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.

32. "Purchase" means any voluntary transaction creating an interest in property, including taking by sale, discount, negotiation, mortgage, pledge, voluntary lien, security interest, issue, reissue, or gift.

Sec. 139. Section 554.1201, subsection 37, paragraph a, Code 1999, is amended to read as follows:

a. "Security interest" means an interest in personal property or fixtures which secures payment or performance of an obligation. ~~The retention or reservation of title by a seller of goods notwithstanding shipment or delivery to the buyer (section 554.2401) is limited in effect to a reservation of a "security interest".~~ The term also includes any interest of a consignor and a buyer of accounts, ~~or~~ chattel paper ~~which~~, a payment intangible, or a promissory note in a transaction that is subject to Article 9. 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. ~~Unless a consignment is intended as security, reservation of title thereunder is not a "security interest", but a consignment in any event is subject to the provisions on consignment sales (section 554.2326).~~ 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 notwithstanding shipment or delivery to the buyer (section 554.2401) is limited in effect to a reservation of a "security interest".

Sec. 140. Section 554.2103, subsection 3, Code 1999, is amended to read as follows:

3. 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 554.9109~~
	Section 554.9102
"Dishonor"	Section 554.3502
"Draft"	Section 554.3104

Sec. 141. Section 554.2210, subsection 2, Code 1999, is amended to read as follows:

2. ~~Unless~~ Except as otherwise provided in section 554.9406, unless otherwise agreed all rights of either seller or buyer can be assigned except where the assignment would materially change the duty of the other party, or increase materially the burden of risk imposed on the other party by the contract, or impair materially the other party's chance of obtaining return performance. A right to damages for breach of the whole contract or a right arising out of the assignor's due performance of the assignor's entire obligation can be assigned despite agreement otherwise.

Sec. 142. Section 554.2210, Code 1999, is amended by adding the following new subsection, and renumbering subsequent subsections:

NEW SUBSECTION. 3. The creation, attachment, perfection, or enforcement of a security interest in the seller's interest under a contract is not a transfer that materially changes the duty of or increases materially the burden or risk imposed on the buyer or impairs materially the buyer's chance of obtaining return performance within the purview of subsection 2 unless, and then only to the extent that, enforcement actually results in a delegation of material performance of the seller. Even in that event, the creation, attachment, perfection, and enforcement of the security interest remain effective, but (i) the seller is liable to the buyer for damages caused by the delegation to the extent that the damages could not reasonably be prevented by the buyer, and (ii) a court having jurisdiction may grant other appropriate relief, including cancellation of the contract for sale or an injunction against enforcement of the security interest or consummation of the enforcement.

Sec. 143. Section 554.2326, Code 1999, is amended to read as follows:

554.2326 SALE ON APPROVAL AND SALE OR RETURN — ~~CONSIGNMENT SALES AND~~ RIGHTS OF CREDITORS.

1. Unless otherwise agreed, if delivered goods may be returned by the buyer even though they conform to the contract, the transaction is

a. a "sale on approval" if the goods are delivered primarily for use, and

b. a "sale or return" if the goods are delivered primarily for resale.

2. ~~Except as provided in subsection 3, goods~~ Goods held on approval are not subject to the claims of the buyer's creditors until acceptance; goods held on sale or return are subject to such claims while in the buyer's possession.

~~3. Where goods are delivered to a person for sale and such person maintains a place of business at which that person deals in goods of the kind involved, under a name other than the name of the person making delivery, then with respect to claims of creditors of the person conducting the business the goods are deemed to be on sale or return. The provisions of this subsection are applicable even though an agreement purports to reserve title to the person making delivery until payment or resale or uses such words as "on consignment" or "on memorandum". However, this subsection is not applicable if the person making delivery~~

~~a. complies with an applicable law providing for a consignor's interest or the like to be evidenced by a sign, or~~

~~b. establishes that the person conducting the business is generally known by creditors of the person conducting the business to be substantially engaged in selling the goods of others, or~~

~~c. complies with the filing provisions of the Article on Secured Transactions (Article 9).~~

~~4.~~ 3. Any "or return" term of a contract for sale is to be treated as a separate contract for sale within the statute of frauds section of this Article (section 554.2201) and as contradicting the sale aspect of the contract within the provisions of this Article on parol or extrinsic evidence (section 554.2202).

Sec. 144. Section 554.2502, Code 1999, is amended to read as follows:

554.2502 BUYER'S RIGHT TO GOODS ON SELLER'S REPUDIATION, FAILURE TO DELIVER, OR INSOLVENCY.

1. Subject to ~~subsection~~ subsections[2] 2 and 3 and even though the goods have not been shipped a buyer who has paid a part or all of the price of goods in which the buyer has a special property under the provisions of the immediately preceding section may on making and keeping good a tender of any unpaid portion of their price recover them from the seller if:

a. in the case of goods bought for personal, family, or household purposes, the seller repudiates or fails to deliver as required by the contract; or

b. in all cases the seller becomes insolvent within ten days after receipt of the first installment on their price.

[2] The word "subsections" probably intended

2. The buyer's right to recover the goods under subsection 1, paragraph "a", vests upon acquisition of a special property, even if the seller had not then repudiated or failed to deliver.

~~2.~~ 3. If the identification creating the buyer's special property has been made by the buyer, the buyer acquires the right to recover the goods only if they conform to the contract for sale.

Sec. 145. Section 554.2716, subsection 3, Code 1999, is amended to read as follows:

3. The buyer has a right of replevin for goods identified to the contract if after reasonable effort the buyer is unable to effect cover for such goods or the circumstances reasonably indicate that such effort will be unavailing or if the goods have been shipped under reservation and satisfaction of the security interest in them has been made or tendered. In the case of goods bought for personal, family, or household purposes, the buyer's right of replevin vests upon acquisition of a special property, even if the seller had not then repudiated or failed to deliver.

Sec. 146. Section 554.4210, subsection 3, paragraph a, Code 1999, is amended to read as follows:

a. no security agreement is necessary to make the security interest enforceable (section 554.9203, subsection ~~1~~ 2, paragraph ~~"a"~~ "c", subparagraph (1));

Sec. 147. NEW SECTION. 554.5118 SECURITY INTEREST OF ISSUER OR NOMINATED PERSON.

1. An issuer or nominated person has a security interest in a document presented under a letter of credit to the extent that the issuer or nominated person honors or gives value for the presentation.

2. So long as and to the extent that an issuer or nominated person has not been reimbursed or has not otherwise recovered the value given with respect to a security interest in a document under subsection 1, the security interest continues and is subject to Article 9, but:

a. a security agreement is not necessary to make the security interest enforceable under section 554.9203, subsection 2, paragraph "c";

b. if the document is presented in a medium other than a written or other tangible medium, the security interest is perfected; and

c. if the document is presented in a written or other tangible medium and is not a certificated security, chattel paper, a document of title, an instrument, or a letter of credit, the security interest is perfected and has priority over a conflicting security interest in the document so long as the debtor does not have possession of the document.

Sec. 148. Section 554.7503, subsection 1, paragraph a, Code 1999, is amended to read as follows:

a. delivered or entrusted them or any document of title covering them to the bailor or the bailor's nominee with actual or apparent authority to ship, store or sell or with power to obtain delivery under this Article (section 554.7403) or with power of disposition under this chapter (sections 554.2403 and ~~554.9307~~ 554.9320) or other statute or rule of law; nor

Sec. 149. Section 554.8103, subsection 6, Code 1999, is amended to read as follows:

6. A commodity contract, as defined in section ~~554.9115~~ 554.9102, subsection 1, paragraph "o", is not a security or a financial asset.

Sec. 150. Section 554.8106, subsections 4 and 6, Code 1999, are amended to read as follows:

4. A purchaser has "control" of a security entitlement if:

a. the purchaser becomes the entitlement holder; ~~or~~

b. the securities intermediary has agreed that it will comply with entitlement orders originated by the purchaser without further consent by the entitlement holder~~.~~; or

c. another person has control of the security entitlement on behalf of the purchaser or, having previously acquired control of the security entitlement, acknowledges that it has control on behalf of the purchaser.

6. A purchaser who has satisfied the requirements of subsection 3~~, paragraph "b",~~ or ~~subsection~~ 4, ~~paragraph "b",~~ has control, even if the registered owner in the case of subsection 3, paragraph "b", or the entitlement holder in the case of subsection 4, ~~paragraph "b",~~ retains the right to make substitutions for the uncertificated security or security entitlement, to originate instructions or entitlement orders to the issuer or securities intermediary, or otherwise to deal with the uncertificated security or security entitlement.

Sec. 151. Section 554.8110, subsection 5, paragraphs a through d, Code 1999, are amended to read as follows:

a. if an agreement between the securities intermediary and its entitlement holder ~~specifies that it is governed by the law of a particular jurisdiction~~ governing the securities account expressly provides that a particular jurisdiction is the securities intermediary's jurisdiction for purposes of this part, this Article, or this [Act], that jurisdiction is the securities intermediary's jurisdiction.

b. if paragraph "a" does not apply and an agreement between the securities intermediary and its entitlement holder governing the securities account expressly provides that the agreement is governed by the law of a particular jurisdiction, that jurisdiction is the securities intermediary's jurisdiction.

c. if neither paragraph "a" nor paragraph "b" applies and an agreement between the securities intermediary and its entitlement holder ~~does not specify the governing law as provided in paragraph "a", but~~ governing the securities account expressly ~~specifies~~ provides that the securities account is maintained at an office in a particular jurisdiction, that jurisdiction is the securities intermediary's jurisdiction.

~~c.~~ d. if ~~an agreement between the securities intermediary and its entitlement holder does not specify a jurisdiction as provided in paragraph "a" or "b"~~ none of the preceding paragraphs applies, the securities intermediary's jurisdiction is the jurisdiction in which ~~is located~~ the office identified in an account statement as the office serving the entitlement holder's account is located.

~~d.~~ e. if ~~an agreement between the securities intermediary and its entitlement holder does not specify a jurisdiction as provided in paragraph "a" or "b" and an account statement does not identify an office serving the entitlement holder's account as provided in paragraph "c"~~ none of the preceding paragraphs applies, the securities intermediary's jurisdiction is the jurisdiction in which ~~is located~~ the chief executive office of the securities intermediary is located.

Sec. 152. Section 554.8301, subsection 1, paragraph c, Code 1999, is amended to read as follows:

c. a securities intermediary acting on behalf of the purchaser acquires possession of the security certificate, only if the certificate is in registered form and ~~has been~~ is (i) registered in the name of the purchaser, (ii) payable to the order of the purchaser, or (iii) specially indorsed to the purchaser by an effective indorsement and has not been indorsed to the securities intermediary or in blank.

Sec. 153. Section 554.8302, subsection 1, Code 1999, is amended to read as follows:

1. Except as otherwise provided in subsections 2 and 3, ~~upon delivery~~ a purchaser of a certificated or uncertificated security ~~to a purchaser, the purchaser~~ acquires all rights in the security that the transferor had or had power to transfer.

Sec. 154. Section 554.8510, Code 1999, is amended to read as follows:

554.8510 RIGHTS OF PURCHASER OF SECURITY ENTITLEMENT FROM ENTITLEMENT HOLDER.

1. ~~An~~ In a case not covered by the priority rules in Article 9 or the rules stated in subsection 3, an action based on an adverse claim to a financial asset or security entitlement, whether framed in conversion, replevin, constructive trust, equitable lien, or other theory,

may not be asserted against a person who purchases a security entitlement, or an interest therein, from an entitlement holder if the purchaser gives value, does not have notice of the adverse claim, and obtains control.

2. If an adverse claim could not have been asserted against an entitlement holder under section 554.8502, the adverse claim cannot be asserted against a person who purchases a security entitlement, or an interest therein, from the entitlement holder.

3. In a case not covered by the priority rules in Article 9, a purchaser for value of a security entitlement, or an interest therein, who obtains control has priority over a purchaser of a security entitlement, or an interest therein, who does not obtain control. ~~Purchasers~~ Except as otherwise provided in subsection 4, purchasers who have control rank ~~equally, except that a~~ according to priority in time of:

a. the purchaser's becoming the person for whom the securities account, in which the security entitlement is carried, is maintained, if the purchaser obtained control under section 554.8106, subsection 4, paragraph "a";

b. the securities intermediary's agreement to comply with the purchaser's entitlement orders with respect to security entitlements carried or to be carried in the securities account in which the security entitlement is carried, if the purchaser obtained control under section 554.8106, subsection 4, paragraph "b";

c. if the purchaser obtained control through another person under section 554.8106, subsection 4, paragraph "c", the time on which priority would be based under this subsection if the other person were the secured party; or

4. A securities intermediary as purchaser has priority over a conflicting purchaser who has control unless otherwise agreed by the securities intermediary.

Sec. 155. Section 554.11108, Code 1999, is amended to read as follows:

554.11108 PRESUMPTION THAT RULE OF LAW CONTINUES UNCHANGED.

Unless a change in law has clearly been made, the provisions of this chapter as amended shall be deemed declaratory of the meaning of this chapter prior to amendment. ~~The first sentence of section 554.9402, subsection 7, shall be deemed to be a change in law.~~

Sec. 156. Section 554.13103, subsection 3, Code 1999, is amended to read as follows:

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

"Account"	Section ~~554.9106~~ 554.9102, subsection 1, paragraph "b"
"Between merchants"	Section 554.2104, subsection 3
"Buyer"	Section 554.2103, subsection 1, paragraph "a"
"Chattel paper"	Section ~~554.9105~~ 554.9102, subsection 1, paragraph ~~"b"~~ "k"
"Consumer goods"	Section ~~554.9109~~ 554.9102, subsection 1, paragraph "w"
"Document"	Section ~~554.9105~~ 554.9102, subsection 1, paragraph ~~"f"~~ "ad"
"Entrusting"	Section 554.2403, subsection 3
~~"General intangibles"~~	~~Section 554.9106~~
"General intangible"	Section 554.9102, subsection 1, paragraph "ap"
"Good faith"	Section 554.2103, subsection 1, paragraph "b"
"Instrument"	Section ~~554.9105~~ 554.9102, subsection 1, paragraph ~~"i"~~ "au"

"Merchant"	Section 554.2104, subsection 1
"Mortgage"	Section ~~554.9105~~ 554.9102, subsection 1, paragraph ~~"j"~~ "bc"
"Pursuant to commitment"	Section ~~554.9105~~ 554.9102, subsection 1, paragraph ~~"k"~~ "bq"
"Receipt"	Section 554.2103, subsection 1, paragraph "c"
"Sale"	Section 554.2106, subsection 1
"Sale on approval"	Section 554.2326
"Sale or return"	Section 554.2326
"Seller"	Section 554.2103, subsection 1, paragraph "d"

Sec. 157. Section 554.13303, subsections 1 through 5, Code 1999, are amended to read as follows:

1. As used in this section, "creation of a security interest" includes the sale of a lease contract that is subject to Article 9, Secured Transactions, by reason of section ~~554.9102~~ 554.9109, subsection 1, paragraph ~~"b"~~ "c".

2. Except as provided in ~~subsections~~ subsection 3 ~~and 4,~~ and section 554.9407, a provision in a lease agreement which (i) prohibits the voluntary or involuntary transfer, including a transfer by sale, sublease, creation or enforcement of a security interest, or attachment, levy, or other judicial process, of an interest of a party under the lease contract or of the lessor's residual interest in the goods, or (ii) makes such a transfer an event of default, gives rise to the rights and remedies provided in subsection ~~5~~ 4, but a transfer that is prohibited or is an event of default under the lease agreement is otherwise effective.

~~3. A provision in a lease agreement which (i) prohibits the creation or enforcement of a security interest in an interest of a party under the lease contract or in the lessor's residual interest in the goods, or (ii) makes such a transfer an event of default, is not enforceable unless, and then only to the extent that, there is an actual transfer by the lessee of the lessee's right of possession or use of the goods in violation of the provision or an actual delegation of a material performance of either party to the lease contract in violation of the provision. Neither the granting nor the enforcement of a security interest in (i) the lessor's interest under the lease contract or (ii) the lessor's residual interest in the goods is a transfer that materially impairs the prospect of obtaining return performance by, materially changes the duty of, or materially increases the burden or risk imposed on, the lessee within the purview of subsection 5 unless, and then only to the extent that, there is an actual delegation of a material performance of the lessor.~~

~~4.~~ 3. A provision in a lease agreement which (i) prohibits a transfer of a right to damages for default with respect to the whole lease contract or of a right to payment arising out of the transferor's due performance of the transferor's entire obligation, or (ii) makes such a transfer an event of default, is not enforceable, and such a transfer is not a transfer that materially impairs the prospect of obtaining return performance by, materially changes the duty of, or materially increases the burden or risk imposed on, the other party to the lease contract within the purview of subsection ~~5~~ 4.

~~5.~~ 4. Subject to ~~subsections~~ subsection 3 and 4 section 554.9407:

a. if a transfer is made which is made an event of default under a lease agreement, the party to the lease contract not making the transfer, unless that party waives the default or otherwise agrees, has the rights and remedies described in section 554.13501, subsection 2;

b. if paragraph "a" is not applicable and if a transfer is made that (i) is prohibited under a lease agreement or (ii) materially impairs the prospect of obtaining return performance by, materially changes the duty of, or materially increases the burden or risk imposed on, the other party to the lease contract, unless the party not making the transfer agrees at any time

to the transfer in the lease contract or otherwise, then, except as limited by contract, (i) the transferor is liable to the party not making the transfer for damages caused by the transfer to the extent that the damages could not reasonably be prevented by the party not making the transfer and (ii) a court having jurisdiction may grant other appropriate relief, including cancellation of the lease contract or an injunction against the transfer.

Sec. 158. Section 554.13307, subsections 1 through 4, Code 1999, are amended by striking the subsections and inserting in lieu thereof the following:

1. Except as otherwise provided in section 554.13306, a creditor of a lessee takes subject to the lease contract.

2. Except as otherwise provided in subsection 3 and in sections 554.13306 and 554.13308, a creditor of a lessor takes subject to the lease contract unless the creditor holds a lien that attached to the goods before the lease contract became enforceable.

3. Except as otherwise provided in sections 554.9317, 554.9321, and 554.9323, a lessee takes a leasehold interest subject to a security interest held by a creditor of the lessor.

Sec. 159. Section 554.13309, subsection 1, paragraph b, Code 1999, is amended to read as follows:

b. a "fixture filing" is the filing, in the office where a record of a mortgage on the real estate would be filed or recorded, of a financing statement covering goods that are or are to become fixtures and conforming to the requirements of section ~~554.9402~~ 554.9502, ~~subsection 5~~ subsections 1 and 2;

DIVISION III
AMENDMENTS IN OTHER CODE CHAPTERS

Sec. 160. Section 15E.91, subsection 7, Code 1999, is amended to read as follows:

7. A copy of each pledge agreement by or to the corporation, including without limitation each bond resolution, indenture of trust, or similar agreement, or any revisions or supplements to it shall be filed with the secretary of state and no further filing or other action under ~~sections 554.9101 to 554.9507~~ chapter 554, article 9 of the uniform commercial code, or any other law of the state is required to perfect the security interest in the collateral or any additions to it or substitutions for it, and the lien and trust created are binding from and after the time made against all parties having claims of any kind in tort, contract, or otherwise against the pledgor.

Sec. 161. Section 16.26, subsection 7, Code 1999, is amended to read as follows:

7. A copy of each pledge agreement by or to the authority, including without limitation each bond resolution, indenture of trust or similar agreement, or any revisions or supplements to it shall be filed with the secretary of state and no further filing or other action under ~~sections 554.9101 to 554.9507~~ chapter 554, article 9 of the uniform commercial code, or any other law of the state shall be required to perfect the security interest in the collateral or any additions to it or substitutions for it, and the lien and trust so created shall be binding from and after the time made against all parties having claims of any kind in tort, contract, or otherwise against the pledgor.

Sec. 162. Section 16A.9, subsection 7, Code 1999, is amended to read as follows:

7. A copy of each pledge agreement by or to the authority, including without limitation each obligation resolution, indenture of trust or similar agreement, or any revisions or supplements to it shall be filed with the secretary of state and no further filing or other action under ~~sections 554.9101 to 554.9507~~ chapter 554, article 9 of the uniform commercial code, or any other law of the state shall be required to perfect the security interest in the collateral or any additions to it or substitutions for it, and the lien and trust so created shall be binding from and after the time made against all parties having claims of any kind in tort, contract, or otherwise against the pledgor.

Sec. 163. Section 203.12A, subsections 2, 7, and 9, Code 1999, are amended to read as follows:

2. "Grain dealer assets" includes proceeds received or due a grain dealer upon the sale, including exchange, collection, or other disposition, of grain sold by the grain dealer. As used in this section, "proceeds" means noncash and cash proceeds as ~~provided~~ defined in section ~~554.9306~~ 554.9102. "Grain dealer assets" also includes any other funds or property of the grain dealer which can be directly traced as being from the sale of grain by the grain dealer, or which were utilized in the business operation of the grain dealer. A court, upon petition by an affected party, may order that claimed grain dealer assets are not grain dealer assets as defined in this section. The burden of proof shall be upon the petitioner to establish that the assets are not grain dealer assets as defined in this section.

7. A lien statement filed under this section shall be a security interest perfected under chapter 554 and subject to the same priority as provided under section ~~554.9312~~ 554.9322.

9. The board may enforce the lien in the manner provided in chapter 554, article 9, part ~~5~~ 6, for the enforcement of security interests. If, upon enforcement of the lien, the lien amount is satisfied in full without exhaustion of the grain dealer assets, the remaining assets shall be returned to the grain dealer or, if there are competing claims to those remaining assets by other creditors, shall place those assets in the custody of the district court and implead the known creditors.

For purposes of enforcement of the lien, the board is deemed to be the secured party and the grain dealer is deemed to be the debtor, and each has the respective rights and duties of a secured party and a debtor as provided in chapter 554, article 9, part ~~5~~ 6. If a right or duty under chapter 554, article 9, part ~~5~~ 6, is contingent upon the existence of express language in a security agreement, or may be waived by express language in a security agreement, the requisite language is deemed not to exist for purposes of enforcement of the lien created by this section.

Sec. 164. Section 203C.12A, subsections 2, 7, and 9, Code 1999, are amended to read as follows:

2. "Warehouse operator assets" includes proceeds received or due a warehouse operator upon the sale, including exchange, collection, or other disposition, of grain sold by the warehouse operator. As used in this section, "proceeds" means noncash and cash proceeds as ~~provided~~ defined in section ~~554.9306~~ 554.9102. "Warehouse operator assets" also includes storage payments received or due to a warehouse operator, grain owned by the warehouse operator, and any other funds or property of the warehouse operator which can be directly traced as being from the sale of grain by the warehouse operator, or which were utilized in the business operation of the warehouse operator. A court, upon petition by an affected party, may order that claimed warehouse operator assets are not warehouse operator assets as defined in this section. The burden of proof shall be upon the petitioner to establish that the assets are not warehouse operator assets as defined in this section.

7. A lien statement filed under this section shall be a security interest perfected under chapter 554 and subject to the same priority as provided under section ~~554.9312~~ 554.9322.

9. The Iowa grain indemnity fund board may enforce the lien in the manner provided in chapter 554, article 9, part ~~5~~ 6, for the enforcement of security interests. If, upon enforcement of the lien, the lien amount is satisfied in full without exhaustion of the warehouse operator assets, the remaining assets shall be returned to the warehouse operator or, if there are competing claims to those remaining assets by other creditors, those assets shall be placed in the custody of the district court and the known creditors impleaded.

For purposes of enforcement of the lien, the board is deemed to be the secured party and the warehouse operator is deemed to be the debtor, and each has the respective rights and duties of a secured party and a debtor as provided in chapter 554, article 9, part ~~5~~ 6. If a right or duty under chapter 554, article 9, part ~~5~~ 6, is contingent upon the existence of express language in a security agreement, or may be waived by express language in a security agreement, the requisite language is deemed not to exist for purposes of enforcement of the lien created by this section.

Sec. 165. Section 321.47, unnumbered paragraph 2, Code Supplement 1999, is amended to read as follows:

The persons entitled under the laws of descent and distribution of an intestate's property to the possession and ownership of a vehicle owned in whole or in part by a decedent, upon filing an affidavit stating the name and date of death of the decedent, the right to possession and ownership of the persons filing the affidavit, and that there has been no administration of the decedent's estate, which instrument shall also contain an agreement to indemnify creditors of the decedent who would be entitled to levy execution upon the motor vehicle to the extent of the value of the motor vehicle, are entitled upon fulfilling the other requirements of this chapter, to the issuance of a registration card for the interest of the decedent in the vehicle and a certificate of title to it. If a decedent dies testate, and either the will is not probated or is admitted to probate without administration, the persons entitled to the possession and ownership of a vehicle owned in whole or in part by the decedent may file an affidavit, and upon fulfilling the other requirements of this chapter, are entitled to the issuance of a registration card for the interest of the decedent in the vehicle and a certificate of title to the vehicle. The affidavit shall contain the same information and indemnity agreement as is required in cases of intestacy pursuant to this section. ~~No~~ A requirement of chapter 450 or 451 shall not be considered satisfied by the filing of the affidavit provided for in this section. If, from the records in the office of the county treasurer, there appear to be any liens on the vehicle, the certificate of title shall contain a statement of the liens unless the application is accompanied by proper evidence of their satisfaction or extinction. Evidence of extinction may consist of, but is not limited to, an affidavit of the applicant stating that a security interest was foreclosed as provided in chapter 554, article 9, part ~~5~~ 6.

Sec. 166. Section 321.50, subsection 1, Code Supplement 1999, is amended to read as follows:

1. A security interest in a vehicle subject to registration under the laws of this state or a mobile home or manufactured housing, except trailers whose empty weight is two thousand pounds or less, and except new or used vehicles held by a dealer or manufacturer as inventory for sale, is perfected by the delivery to the county treasurer of the county where the certificate of title was issued or, in the case of a new certificate, to the county treasurer where the certificate will be issued, of an application for certificate of title which lists the security interest, or an application for notation of security interest signed by the owner, or by one owner of a vehicle owned jointly by more than one person, or a certificate of title from another jurisdiction which shows the security interest, and a fee of five dollars for each security interest shown. If the owner or secured party is in possession of the certificate of title, it must also be delivered at this time in order to perfect the security interest. If a vehicle is subject to a security interest when brought into this state, the validity of the security interest and the date of perfection is determined by section ~~554.9103~~ 554.9303. Delivery as provided in this subsection is an indication of a security interest on a certificate of title for purposes of chapter 554.

Sec. 167. Section 322.21, Code Supplement 1999, is amended to read as follows:

322.21 REMAINING BALANCE ON TRADE VEHICLE.

The extension of credit by a retail seller to a retail buyer, pursuant to a retail installment contract, of the amount actually paid or to be paid by the retail seller to discharge a purchase money security interest, as ~~defined~~ provided in section ~~554.9107~~ 554.9103, on a motor vehicle traded in by the retail buyer shall not subject the retail seller to the provisions of chapter 536 or 536A.

Sec. 168. Section 331.602, subsection 28, Code Supplement 1999, is amended to read as follows:

28. Carry out duties relating to the filing of financing statements or instruments as provided in ~~sections 554.9401 to 554.9408~~ chapter 554, article 9, part 5.

Sec. 169. Section 331.609, subsection 3, paragraph a, subparagraph (1), Code 1999, is amended to read as follows:

(1) If the filing officer is the secretary of state, the secretary shall cause the notice to be marked, held, and indexed in accordance with section ~~554.9403, subsection 4~~ 554.9519, as if the notice were a financing statement ~~within the meaning of that section~~ as provided in chapter 554, article 9, part 5.

Sec. 170. Section 461A.6, Code 1999, is amended to read as follows:

461A.6 COSTS — LIEN.

The cost of such removal shall be paid by the owner of said pier, wharf, sluice, piling, wall, fence, obstruction, erection or building, and the state shall have a lien upon the property removed for such costs. Said costs shall be payable at the time of removal and such lien may be enforced and foreclosed, as provided for the foreclosure of security interests in Uniform Commercial Code, chapter 554, article 9, part ~~5~~ 6.

Sec. 171. Section 537.5103, subsections 2 and 3, Code 1999, are amended to read as follows:

2. If the seller repossesses or voluntarily accepts surrender either of goods which were the subject of the sale and in which the seller has a security interest, or of goods which were not the subject of the sale but in which the seller has a security interest to secure a debt arising from a sale of goods or services or a combined sale of goods and services, the seller's duty to dispose of the collateral is governed by the provisions on disposition of collateral in ~~sections 554.9501 to 554.9507~~ chapter 554, article 9, part 6.

3. If a lender takes possession or voluntarily accepts surrender of goods in which the lender has a security interest to secure a debt arising from a consumer loan, the lender's duty to dispose of the collateral is governed by the provisions on disposition of collateral in ~~sections 554.9501 to 554.9507~~ chapter 554, article 9, part 6.

Sec. 172. Section 539.1, Code 1999, is amended to read as follows:

539.1 ASSIGNMENT OF NONNEGOTIABLE INSTRUMENTS.

Bonds, due bills, and all instruments by which the maker promises to pay another, without words of negotiability, a sum of money, or by which the maker promises to pay a sum of money in property or labor, or to pay or deliver any property or labor, or acknowledges any money, labor, or property to be due, are assignable by endorsement on the instrument, or by other writing. The assignee, including a person who takes assignment for collection in the regular course of business, has a right of action on them in the assignee's own name, subject to any defense or counterclaim which the maker or debtor had against an assignor of the instrument before notice of the assignment. In case of conflict between this section and ~~sections~~ section 554.5112, 554.5113, 554.5114, ~~and 554.9318, sections~~ 554.9404, or 554.9405, section 554.5112, 554.5113, 554.5114, ~~and 554.9318 control~~ 554.9404, or 554.9405 controls.

Sec. 173. Section 539.2, Code 1999, is amended to read as follows:

539.2 ASSIGNMENT PROHIBITED BY INSTRUMENT.

When by the terms of an instrument its assignment is prohibited, an assignment thereof shall nevertheless be valid, but the maker may make use of any defense or counterclaim against the assignee which the maker may have against any assignor thereof before notice of such assignment is given to the maker in writing. In case of conflict between this section and ~~sections~~ section 554.5112, 554.5113, 554.5114, ~~and 554.9318, sections~~ 554.9404, or 554.9405, section 554.5112, 554.5113, 554.5114, ~~and 554.9318 control~~ 554.9404, or 554.9405 controls.

Sec. 174. Section 539.3, Code 1999, is amended to read as follows:

539.3 ASSIGNMENT OF OPEN ACCOUNT.

An open account of sums of money due on contract may be assigned. The assignee, including a person who takes assignment for collection in the regular course of business, has a right of action on the account in the assignee's own name, subject to the defenses and

counterclaims allowed against the instruments mentioned in section 539.2, before notice of the assignment is given to the debtor in writing by the assignee. In case of conflict Uniform Commercial Code, section ~~554.9318~~ 554.9404 or 554.9405, controls.

Sec. 175. Section 554B.1, Code 1999, is amended to read as follows:

554B.1 DEFINITIONS.

As used in this chapter "transmitting utility" has the same meaning as defined in the Uniform Commercial Code, section ~~554.9105, subsection 1, paragraph "n"~~ 554.9102, subsection 1. Security interests filed pursuant to this chapter prior to January 1, 1975, which have not been terminated, are deemed to be filed in accordance with section ~~554.9401~~ 554.9501, subsection ~~5~~ 2.

Sec. 176. Section 570.1, Code 1999, is amended to read as follows:

570.1 LIEN CREATED — PROPERTY SUBJECTED.

1. A landlord shall have a lien for the rent upon all crops grown upon the leased premises, and upon any other personal property of the tenant which has been used or kept thereon during the term and which is not exempt from execution.

2. In order to perfect a lien in farm products as defined in section 554.9102, which is created under this section, a landlord must file a financing statement as required by section 554.9308, subsection 2. Except as provided in chapters 571, 572, 579A, 579B, and 581, a perfected lien in the farm products has priority over a conflicting security interest or lien, including a security interest or lien that was perfected prior to the creation of the lien under this section, if the lien created in this section is perfected on either of the following dates:

a. Prior to July 1, 2001.

b. When the debtor takes possession of the leased premises or within twenty days after the debtor takes possession of the leased premises.

A financing statement filed to perfect a lien in the farm products must include a statement that it is filed for the purpose of perfecting a landlord's lien. Within twenty days after a landlord who has filed a financing statement receives a written demand, authenticated as provided in Article 9 of chapter 554, from a tenant, the landlord shall file a termination statement, if the lien in the farm products has expired or if the tenant is no longer in possession of the leased premises and has performed all obligations under the lease.

Sec. 177. Section 570A.4, subsection 4, Code 1999, is amended to read as follows:

4. The secretary of state shall note the filing of a lien statement under this section in the manner provided by chapter 554, the uniform commercial code, and shall charge a fee as provided under section ~~554.9403~~ 554.9525.

Sec. 178. Section 570A.6, Code 1999, is amended to read as follows:

570A.6 ENFORCEMENT OF LIEN.

The holder of a lien perfected under this chapter may enforce the lien in the manner provided ~~in~~ for agricultural liens pursuant to chapter 554, article 9, part ~~5~~ 6, for the enforcement of security interests. For purposes of enforcement of the lien, the lienholder is deemed to be the secured party, and the farmer for whom the agricultural chemical, seed, feed, or petroleum product was furnished is deemed to be the debtor, and each has the respective rights and duties of a secured party and a debtor as provided in chapter 554, article 9, part ~~5~~ 6. Where a right or duty under chapter 554, article 9, part ~~5~~ 6, is contingent upon the existence of express language in a security agreement, or may be waived by express language in a security agreement, the requisite language is deemed not to exist for purposes of enforcement of the lien created by this chapter.

Sec. 179. Section 571.5, Code 1999, is amended to read as follows:

571.5 ~~FORECLOSURE~~ ENFORCEMENT OF LIEN.

~~Said~~ A lien as provided in this chapter may be ~~foreclosed~~ enforced in the manner provided ~~in~~ for agricultural liens pursuant to the Uniform Commercial Code, chapter 554, Article 9, Part ~~5~~ 6.

Sec. 180. Section 579A.3, unnumbered paragraph 1, Code 1999, is amended to read as follows:

While the cattle are located at the custom cattle feedlot, the custom cattle feedlot operator may foreclose a lien created in section 579A.2 in the manner provided for the ~~foreclosure of secured transactions~~ enforcement of an agricultural lien as provided in ~~sections 554.9504, 554.9506, and 554.9507~~ chapter 554, article 9, part 6. After the cattle have left the custom cattle feedlot, the custom cattle feedlot operator may enforce the lien by commencing an action at law for the amount of the lien against either of the following:

Sec. 181. Section 579B.3, subsection 1, paragraph a, subparagraph (1), subparagraph subdivision (c), Code Supplement 1999, is amended to read as follows:

(c) If the livestock is slaughtered by the contractor, the lien shall be on any property of the contractor that may be subject to a security interest as provided in section ~~554.9102~~ 554.9109.

Sec. 182. Section 579B.3, subsection 1, paragraph a, subparagraph (2), subparagraph subdivision (c), Code Supplement 1999, is amended to read as follows:

(c) If the raw milk is processed by the contractor, the lien shall be on any property of the contractor that may be subject to a security interest as provided in section ~~554.9102~~ 554.9109.

Sec. 183. Section 579B.3, subsection 2, paragraph a, subparagraph (3), Code Supplement 1999, is amended to read as follows:

(3) If the crop is processed by the contractor, the lien shall be on any property of the contractor that may be subject to a security interest as provided in section ~~554.9102~~ 554.9109.

Sec. 184. Section 579B.5, Code Supplement 1999, is amended to read as follows:

579B.5 ENFORCEMENT.

Before a commodity leaves the authority of the contract producer as provided in section 579B.3, the contract producer may ~~foreclose~~ enforce a lien created in that section in the manner provided for the ~~foreclosure of secured transactions~~ enforcement of an agricultural lien as provided in ~~sections 554.9504, 554.9506, and 554.9507~~ chapter 554, article 9, part 6. After the commodity is no longer under the authority of the contract producer, the contract producer may enforce the lien in the manner provided in chapter 554, article 9, part ~~5~~ 6.

DIVISION IV
REPEALS AND EFFECTIVE DATE

Sec. 185. Sections 554.9101 through 554.9507, Code 2001, are repealed.

Sec. 186. Section 554.11105, Code 2001, is repealed.

Sec. 187. EFFECTIVE DATE. This Act takes effect July 1, 2001.

Approved April 26, 2000

CHAPTER 1150

ESTATES AND TRUSTS

H.F. 2518

AN ACT relating to probate and trust law, including certain notification provisions, certain distributions to minors, the effect of dissolution of marriage on will provisions, powers of attorney, and making certain amendments to the Iowa trust code.

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

Section 1. Section 633.32, subsections 1 and 2, Code 1999, are amended to read as follows:

1. On ~~May~~ June 1 and ~~November~~ December 1 of each year, the clerk shall notify the fiduciary and the fiduciary's attorney of any delinquent inventories or reports due by law in any pending estate, trust, guardianship, or conservatorship, and that unless such delinquent inventory or report is filed within sixty days thereafter, the matter shall be reported to the presiding judge. If the delinquent inventory is not filed within the time so specified, the fiduciary will be subject to removal under the provisions of section 633.65 of this Code.

2. On ~~July~~ August 1 and ~~January~~ February 1 of each year, the clerk shall report to the presiding judge all delinquent inventories or reports in estates, trusts, guardianships or conservatorships on which such notice has been given and no report or inventory has been filed in response to the notice.

Sec. 2. Section 633.108, Code 1999, is amended to read as follows:

633.108 SMALL DISTRIBUTIONS TO MINORS — PAYMENT.

Whenever a minor becomes entitled under the terms of a will to a bequest or legacy, to a share of the estate of an intestate, or to a beneficial interest in a trust fund upon the distribution of the trust fund, and the value of the bequest, legacy, share, or interest does not exceed the sum of ten thousand dollars, ~~and a conservator for the minor has not been appointed, the court having jurisdiction of the distribution of the funds may, in its discretion, upon the application of the fiduciary, enter an order authorizing the fiduciary to pay the bequest, legacy, share, or interest~~ the personal representative or trustee may pay the bequest, legacy, share, or interest to a custodian under any uniform transfers to minors Act. Receipt by the custodian, when presented to the court or filed with the report of distribution of the fiduciary, shall have the same force and effect as though the payment had been made to a duly appointed and qualified conservator for the minor.

Sec. 3. Section 633.271, Code 1999, is amended to read as follows:

633.271 EFFECT OF DIVORCE OR DISSOLUTION.

If after making a will the testator is divorced or the marriage is dissolved, all provisions in the will in favor of the testator's spouse, including but not limited to dispositions, appointments relating to property, and nominations to serve in any fiduciary or representative capacity, are thereby revoked. In the event the testator and spouse remarry each other, the provisions of the will revoked by the divorce or dissolution of marriage shall be reinstated unless otherwise revoked by the testator.

Sec. 4. Section 633.304, unnumbered paragraph 2, Code 1999, is amended to read as follows:

As used in this section, "heir" means only such person as would, in an intestate estate, be entitled to a share under section 633.219, subsection 1, 2, ~~or~~ 3, or 4 ~~of section 633.219~~.

Sec. 5. Section 633.305, unnumbered paragraph 2, Code 1999, is amended to read as follows:

As used in this section, "heir" means only such person as would, in an intestate estate, be entitled to a share under section 633.219, subsection 1, 2, ~~or~~ 3, or 4 ~~of section 633.219~~.

Sec. 6. Section 633.705, Code 1999, is amended to read as follows:

633.705 WHEN POWER OF ATTORNEY NOT AFFECTED BY DISABILITY.

1. Whenever a principal designates another the principal's attorney in fact or agent by a power of attorney in writing and the writing contains the words "This power of attorney shall not be affected by disability of the principal", or "This power of attorney shall become effective upon the disability of the principal", or similar words showing the intent of the principal that the authority conferred shall be exercisable notwithstanding the principal's disability, the authority of the attorney in fact or agent is exercisable as provided in the power on behalf of the principal notwithstanding later disability or incapacity of the principal or later uncertainty as to whether the principal is dead or alive. All acts done by the attorney in fact or agent pursuant to the power during any period of disability or incompetence or uncertainty as to whether the principal is dead or alive have the same effect and inure to the benefit of and bind the principal and the principal's heirs, devisees and personal representatives as if the principal were alive, competent and not disabled. If a conservator thereafter is appointed for the principal, the attorney in fact or agent, during the continuance of the appointment, shall account to the conservator rather than the principal, and the conservator shall have the power to revoke the power of attorney on behalf of the principal.

2. An affidavit, executed by the attorney in fact or agent stating that the attorney in fact or agent did not have, at the time of doing an act pursuant to the power of attorney, actual knowledge of the revocation or termination of the power of attorney by death or by the act of the principal, is, in the absence of fraud, conclusive proof of the nonrevocation or nontermination of the power at that time. If the exercise of the power requires execution and delivery of any instrument which is recordable, the affidavit when properly acknowledged is also recordable.

Sec. 7. Section 633.1102, subsection 15, as enacted by 1999 Iowa Acts, chapter 125, section 2, is amended to read as follows:

15. "Term" or "terms", when used in relation to a trust, means the manifestation of the settlor's intent regarding a trust's provisions at the time of the trust's creation or amendment. "Term" includes those concepts expressed directly in writing, as well as those inferred from constructional preferences or rules, or by other proof admissible under the rules of evidence.

Sec. 8. Section 633.2106, subsections 1 and 2, as enacted by 1999 Iowa Acts, chapter 125, section 13, are amended to read as follows:

1. Where the owner of property gratuitously transfers the property and manifests in the trust instrument an intention that the transferee should hold the property in trust but the trust fails, the transferee holds the trust estate as a resulting trust for the transferor or the transferor's estate, unless ~~all~~ either of the following is true:

a. The transferor manifested in the trust instrument an intention that no resulting trust should arise.

b. The intended trust fails for illegality and the policy against unjust enrichment of the transferee is outweighed by the policy against giving relief to a person who has entered into an illegal transaction.

2. Where the owner of property gratuitously transfers the property subject to a trust which is properly declared and which has been fully performed without exhausting the trust estate, the trustee holds the surplus as a resulting trust for the transferor or the transferor's estate, unless the transferor manifested in the trust instrument an intention that no resulting trust of the surplus should arise.

Sec. 9. Section 633.2201, as enacted by 1999 Iowa Acts, chapter 125, section 15, is amended to read as follows:

633.2201 TERMINATION ~~OR MODIFICATION~~ OF TRUST.

1. In addition to the methods specified in sections 633.2202 through 633.2205, a trust terminates when any of the following occurs:

a. The term of the trust expires.
b. The trust purpose is fulfilled.
c. The trust purpose becomes unlawful or impossible to fulfill.
d. The trust is revoked.

2. On termination of a trust, the trustee may exercise the powers necessary to wind up the affairs of the trust and distribute the trust property to those entitled to the trust property.

3. For purposes of sections 633.2202 through 633.2205, a beneficiary is limited to a person that is an eligible recipient of income or principal, or would receive principal or income from the trust if it were terminated.

Sec. 10. Section 633.2203, as enacted by 1999 Iowa Acts, chapter 125, section 17, is amended to read as follows:

633.2203 MODIFICATION OR TERMINATION OF IRREVOCABLE TRUST ~~IF NO MATERIAL PURPOSE~~.

1. An irrevocable trust may be terminated or modified ~~either~~ by the court ~~or upon~~ with the consent of all of the beneficiaries if continuance of the trust on the same or different terms is not necessary to carry out a material purpose.

~~2. Upon petition to the court by the settlor, trustee, or other interested person, the court may set aside an improper termination or modification by the beneficiaries.~~

~~3.~~ 2. Upon termination of the trust, the ~~trustee~~ court shall ~~distribute~~ order the distribution of trust property in accordance with the probable intention of the settlor ~~or as agreed by the beneficiaries~~.

~~4.~~ 3. For purposes of this section, the consent of a person who may bind a beneficiary is considered the consent of the beneficiary.

Sec. 11. 1999 Iowa Acts, chapter 125, is amended by adding the following new section:

SEC. 110. NEW SECTION. 633.2203A MODIFICATION OF ADMINISTRATIVE PROVISIONS BY COURT FOR CHANGE OF CIRCUMSTANCES.

On petition by a trustee or beneficiary, the court may modify the administrative provisions of the trust, if, owing to circumstances not known to the settlor and not anticipated by the settlor, the continuation of the trust under its terms would defeat or substantially impair the accomplishment of the purposes of the trust. If necessary to carry out the purposes of the trust, the court may order the trustee to do acts that are not authorized or are forbidden by the trust instrument.

Sec. 12. Section 633.2206, subsection 1, as enacted by 1999 Iowa Acts, chapter 125, section 20, is amended to read as follows:

1. A trustee, without approval of court, may combine two or more trusts with substantially similar beneficial interests unless the trust is a court reporting trust.

Sec. 13. Section 633.2207, as enacted by 1999 Iowa Acts, chapter 125, section 21, is amended to read as follows:

633.2207 DIVISION OF TRUSTS.

1. Without approval of a court, a trustee may divide a trust into two or more separate trusts with substantially similar terms if the division will not defeat or substantially impair the accomplishment of the trust purposes or the rights of the beneficiaries unless the trust is a court reporting trust.

2. On petition by a trustee or beneficiary, the court may divide a trust into two or more separate trusts, whether or not their terms are similar, if the court determines that dividing the trust is in the best interest of the beneficiaries and will not defeat or substantially impair the accomplishment of the trust purposes or the rights of the beneficiaries. To facilitate the division, the trustee may divide the trust assets in kind, by pro rata or non-pro rata division, or by any combination of the methods.

Sec. 14. Section 633.3101, subsection 1, as enacted by 1999 Iowa Acts, chapter 125, section 25, is amended to read as follows:

1. ~~The competency necessary to~~ To create, revoke, or modify a revocable trust, ~~that contains dispositive provisions upon the death of~~ the settlor ~~is the same as the competency required to make a will~~ must be competent. An aggrieved person shall have all causes of action and remedies available to the aggrieved person in attacking the creation, revocation, or modification of a revocable trust as one would if attacking the propriety of the execution of a will.

Sec. 15. Section 633.3104, subsection 2, as enacted by 1999 Iowa Acts, chapter 125, section 28, is amended to read as follows:

2. Following the death of a settlor, the property of a revocable trust subject to the settlor's power of revocation at the time of death is subject to the claims of the settlor's creditors and costs of administration of the settlor's estate to the extent of the value of the property over which the ~~settlor's~~ settlor had a power of revocation ~~and~~, if the settlor's estate is inadequate to satisfy those claims and costs.

Sec. 16. Section 633.3107, subsection 1, as enacted by 1999 Iowa Acts, chapter 125, section 31, is amended to read as follows:

1. If, after executing a revocable trust, the settlor is divorced or the settlor's marriage is dissolved, all provisions in the trust in favor of the settlor's spouse including, but not limited to, dispositions, appointments of property, and nominations to serve in any fiduciary or representative capacity are revoked by divorce or dissolution of marriage.

Sec. 17. Section 633.3108, as enacted by 1999 Iowa Acts, chapter 125, section 32, is amended to read as follows:

633.3108 LIMITATION ON CONTEST OF REVOCABLE TRUST.

Unless notice is given as provided in section 633.3109, the following provisions shall apply:

1. Unless previously barred by adjudication, consent, or other limitation, a proceeding to contest the validity of a revocable trust must be brought no later than one year following the death of the settlor.

2. Unless the trustee is a party to a pending proceeding contesting its validity, six months following the death of the settlor, the trustee of a revocable trust may assume the trust's validity and proceed to distribute the trust property in accordance with the terms of the trust, without liability for so doing. Liability for an improper distribution in such a case is solely on the beneficiaries.

~~3. If notice is given pursuant to section 633.3109, the six month period in subsection 2 is ineffectual and the applicable time period shall be determined by section 633.3109.~~

Sec. 18. Section 633.3109, as enacted by 1999 Iowa Acts, chapter 125, section 33, is amended to read as follows:

633.3109 NOTICE TO CREDITORS, HEIRS, SPOUSE, AND BENEFICIARIES.

1. As used in this section, "~~intestate~~ heir" means only such person as would, in an intestate estate, be entitled to a share under section 633.219, subsection 1, 2, ~~or~~ 3, or 4.

2. A creditor of a deceased settlor of a revocable trust must bring suit to enforce its claim against the assets of the decedent's trust within one year of the decedent's death or be forever barred from collection against the trust assets. If a probate administration is commenced for the decedent and notice is properly given pursuant to section 633.230 or 633.304, a creditor's rights shall be determined under those sections and section 633.3104.

3. If no notice is given to creditors and heirs pursuant to subsection ~~1~~ 2, a creditor's rights may be established or terminated if the trustee gives notice as follows:

a. The trustee shall publish a notice once each week for two consecutive weeks in a daily or weekly newspaper of general circulation published in the county in which the ~~settlor was~~

~~domiciled~~ decedent was a resident at the time of death, and in any county of which the decedent was a nonresident but in which some real estate of the trust is located. If the decedent was not a resident of Iowa, but the principal place of administration is in Iowa, the trustee shall publish notice in the county that is the principal place of administration pursuant to section 633.6102.

b. If ~~the decedent was a nonresident of the county in which some real estate of the trust is located, and~~ at any time during the pendency of the trust administration the trustee has knowledge of the name and address of a person believed to own or possess a claim which will not, or may not, be paid or otherwise satisfied during administration, the trustee shall provide a notice by ordinary mail to each such claimant at the claimant's last known address.

c. As soon as practicable, the trustee shall give a notice by ordinary mail to the surviving spouse, the ~~intestate~~ heirs of the decedent, and each beneficiary under the trust whose identities are reasonably ascertainable, at such person's last known addresses.

d. The notice in paragraphs "a", "b", and "c" shall include notification of the decedent's death, and the fact that any action to contest the validity of the trust must be brought within the later to occur of sixty days from the date of the second publication of the notice made pursuant to paragraph "a" or thirty days from the date of mailing of the notice pursuant to paragraph "b" or "c". A person who does not make a claim within the appropriate period is forever barred.

e. The trustee shall give notice to debtors to make payment, and to creditors having claims against the trust assets to mail proof of their claim to the trustee via certified mail, return receipt requested, within the later to occur of sixty days from the second publication of the notice or thirty days from the date of mailing of the notice, or thereafter be forever barred.

4. The notice described in subsection 3 shall be substantially in the following form:

To all persons regarding _____, deceased, who died on or about _____, (year)____. You are hereby notified that _____ is the trustee of the _____ Trust. At this time, no probate administration is contemplated with regard to the above-referenced decedent's estate.

Any action to contest the validity of the trust must be brought in the District Court of _____ County, Iowa, within the later to occur of sixty days from the date of second publication of this notice, or thirty days from the date of mailing this notice to all heirs of the decedent, spouse of the decedent, and beneficiaries under the trust whose identities are reasonably ascertainable. Any claim not filed within this period shall be forever barred.

Notice is further given that all persons indebted to the decedent or to the trust are requested to make immediate payment to the undersigned trustee. Creditors having claims against the trust must mail them to the trustee at the address listed below via certified mail, return receipt requested. Unless creditor claims are mailed by the later to occur of sixty days from the second publication of this notice or thirty days from the date of mailing this notice, a claim shall be forever barred, unless otherwise allowed or paid.

Dated this _____ day of _____, (year)____.

_____ Trust

_____

Trustee

Address: _____

_____

Date of second publication _____ day of _____, (year) ____.

5. The claimant either must receive satisfaction of its claim ~~within sixty days of mailing its claim to the trustee~~, or must file suit against the trust to enforce collection of the creditor's claim within sixty days of mailing its claim to the trustee. The trustee and creditor may agree to extend the limitations period for filing an action to enforce the claim. If the claimant fails to properly file its claim within the established time period or bring an action to enforce its claim within the established time period, the creditor's claim shall be forever barred.

Sec. 19. Section 633.3111, subsection 2, as enacted by 1999 Iowa Acts, chapter 125, section 35, is amended to read as follows:

2. A trustee shall be entitled to indemnification from the beneficiaries for all amounts paid to creditors under this section, to the extent of distributions made.

Sec. 20. Section 633.4101, as enacted by 1999 Iowa Acts, chapter 125, section 36, is amended to read as follows:

633.4101 ACCEPTANCE OR ~~REJECTION OF TRUST BY~~ DECLINATION TO SERVE AS TRUSTEE.

1. A person named as trustee accepts the office of trustee by doing one of the following:

a. Signing the trust instrument, or signing a separate written acceptance.

b. Except as provided in subsection 3, knowingly accepting delivery of the trust property or exercising powers or performing duties as trustee.

2. A person named as trustee who has not yet accepted the office of trustee may in writing ~~reject the trust~~ decline to serve as trustee.

3. If there is an immediate risk of damage to the trust property, the person named as trustee may act to preserve the trust property without accepting the office of trustee, if within a reasonable time after acting, the person delivers a written ~~rejection of the trust~~ declination to serve to the settlor, or if the settlor is dead or lacks capacity, to the beneficiaries eligible to receive income or principal distributions from the trust.

Sec. 21. Section 633.4104, subsection 1, as enacted by 1999 Iowa Acts, chapter 125, section 39, is amended to read as follows:

1. The person named as trustee ~~rejects the trust~~ declines to serve as trustee.

Sec. 22. Section 633.4105, as enacted by 1999 Iowa Acts, chapter 125, section 40, is amended to read as follows:

633.4105 FILLING VACANCY.

~~1. For purposes of this section, "adult beneficiaries" shall not include either of the following:~~

~~a. Beneficiaries who are not competent and are not represented by a guardian, conservator, or agent.~~

~~b. Beneficiaries who are not entitled or eligible to receive trust income or a distribution of principal were the trust to terminate at the time the agreement is made.~~

~~2.~~ 1. A trustee must be appointed to fill a vacancy in the office of the trustee only if the trust has no trustee or the terms of the trust require a vacancy in the office of cotrustee to be filled.

~~3.~~ 2. A vacancy in the office of trustee shall be filled according to the following:

a. By the person named in or nominated pursuant to the method specified by the terms of the trust.

b. If the terms of the trust do not name a person or specify a method for filling the vacancy, or if the person named or nominated pursuant to the method specified fails to accept, one of the following methods shall be used:

~~(1) By a trust company designated by agreement of the adult beneficiaries specified in subsection 1.~~

~~(2)~~ (1) By majority vote of all adult beneficiaries and the ~~parent or legal guardian~~ representative of any minor or incompetent beneficiary, as defined by section 633.6303.

~~(3)~~ (2) By a person appointed by the court on petition of an interested person or of a person named as trustee by the terms of the trust. The court, in selecting a trustee, shall consider any nomination made by the adult beneficiaries and representatives.

3. Beneficiaries entitled to vote are those who are currently entitled or eligible to receive trust income or a distribution of principal if the trust were to terminate at the time of the vote.

Sec. 23. Section 633.4107, subsection 1, as enacted by 1999 Iowa Acts, chapter 125, section 42, is amended to read as follows:

1. A trustee may be removed in accordance with the terms of the trust, ~~by the court on its own motion,~~ or on petition of a settlor, cotrustee, or beneficiary under section 633.6202.

Sec. 24. Section 633.4111, subsection 2, paragraph b, as enacted by 1999 Iowa Acts, chapter 125, section 46, is amended to read as follows:

b. Each beneficiary who was given the last preceding ~~account~~ accounting.

Sec. 25. Section 633.4504, as enacted by 1999 Iowa Acts, chapter 125, section 76, is amended to read as follows:

633.4504 LIMITATION OF ACTION AGAINST TRUSTEE ~~FOLLOWING FINAL ACCOUNT~~.

1. Unless previously barred by adjudication, consent, or other limitation, a claim against a trustee for breach of trust is barred as to a beneficiary who has received a final account or other report adequately disclosing the existence of the claim, unless a proceeding to assert the claim is commenced within one year after the ~~later~~ earlier of the receipt of the ~~account~~ accounting or report ~~or~~ of the termination of the trust relationship between the trustee and beneficiary. An account or report adequately discloses the existence of a claim if it provides sufficient information so that the beneficiary knows of the claim or reasonably should have inquired into its existence.

2. For the purpose of subsection 1, a beneficiary is deemed to have received an account or report in the following instances:

a. In the case of an adult who is reasonably capable of understanding the account or report, if it is received by the adult personally.

b. In the case of an adult who is not reasonably capable of understanding the account or report, if it is received by the adult's legal representative, including a guardian ad litem or other person appointed for this purpose.

c. In the case of a minor, if it is received by the minor's guardian or conservator or, if the minor does not have a guardian or conservator, if it is received by a parent of the minor who does not have a conflict of interest.

3. Any claim for breach of trust against a trustee who has presented a final report to a beneficiary more than one year prior to the effective date of this Act shall be time barred unless some exception stated in this section applies which tolls the statute. Any claim arising under this section within one year of the effective date of the Act shall be time barred after one year unless an exception applies to toll the statute.

Sec. 26. 1999 Iowa Acts, chapter 125, section 69, is repealed.

Approved April 26, 2000

CHAPTER 1151

GIFTED AND TALENTED PROGRAM FUNDING

H.F. 2145

AN ACT providing for the utilization of budget enrollment in determining gifted and talented program funding, and providing an effective date.

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

Section 1. Section 257.46, subsection 2, Code Supplement 1999, is amended to read as follows:

2. The remaining portion of the budget shall be funded by the thirty-eight dollar increase in allowable growth for the school budget year beginning July 1, 1999, ~~increased by the~~

~~growth of the regular program district cost each year~~ multiplied by a district's budget enrollment. The thirty-eight dollar increase for the school budget year beginning July 1, 1999, shall increase in subsequent years by each year's state percent of growth. School districts shall annually report the amount expended for a gifted and talented program to the department of education. The proportion of a school district's budget which corresponds to the thirty-eight dollar increase in allowable growth for the school budget year beginning July 1, 1999, added to the amount in subsection 1, shall be utilized exclusively for a school district's ~~talented and~~ gifted and talented program.

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

Approved April 27, 2000

CHAPTER 1152

ANIMAL TORTURE

H.F. 723

AN ACT prohibiting the mistreatment of animals and providing for penalties.

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

Section 1. Section 232.8, subsection 1, paragraph c, Code 1999, is amended to read as follows:

c. Violations by a child, age sixteen or older, which subject the child to the provisions of section 124.401, subsection 1, paragraph "e" or "f", or violations of section 723A.2 which involve a violation of chapter 724, or violation of chapter 724 which constitutes a felony, or violations which constitute a forcible felony are excluded from the jurisdiction of the juvenile court and shall be prosecuted as otherwise provided by law unless the court transfers jurisdiction of the child to the juvenile court upon motion and for good cause. A child over whom jurisdiction has not been transferred to the juvenile court, and who is convicted of a violation excluded from the jurisdiction of the juvenile court under this paragraph, shall be sentenced pursuant to section 124.401B, 902.9, or 903.1. Notwithstanding any other provision of the Code to the contrary, the court may accept from a child a plea of guilty, or may instruct the jury on a lesser included offense to the offense excluded from the jurisdiction of the juvenile court under this section, in the same manner as regarding an adult. However, the juvenile court shall have exclusive original jurisdiction in a proceeding concerning an offense of livestock torture as provided in section 717.3 or[1] animal torture as provided in section 717B.3A alleged to have been committed by a child under the age of seventeen.

Sec. 2. Section 232.8, subsection 3, Code 1999, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. This subsection does not apply in a proceeding concerning an offense of livestock torture as provided in section 717.3 or[2] animal torture as provided in section 717B.3A alleged to have been committed by a child under the age of seventeen.

---

[1] See chapter 1232, §57 herein

[2] See chapter 1232, §58 herein

Sec. 3. NEW SECTION. 717B.3A ANIMAL TORTURE.

1. A person is guilty of animal torture, regardless of whether the person is the owner of the animal, if the person inflicts upon the animal severe physical pain with a depraved or sadistic intent to cause prolonged suffering or death.

2. This section shall not apply to any of the following:

a. A person acting to carry out an order issued by a court.

b. A licensed veterinarian practicing veterinary medicine as provided in chapter 169.

c. A person carrying out a practice that is consistent with animal husbandry practices.

d. A person acting in order to carry out another provision of law which allows the conduct.

e. A person taking, hunting, trapping, or fishing for a wild animal as provided in chapter 481A.

f. A person acting to protect the person's property from a wild animal as defined in section 481A.1.

g. A person acting to protect a person from injury or death caused by a wild animal as defined in section 481A.1.

h. A person reasonably acting to protect the person's property from damage caused by an unconfined animal.

i. A person reasonably acting to protect a person from injury or death caused by an unconfined animal.

j. A local authority reasonably acting to destroy an animal, if at the time of the destruction, the owner of the animal is absent or unable to care for the animal, and the animal is permanently distressed by disease or injury to a degree that would result in severe and prolonged suffering.

k. An institution, as defined in section 145B.1, or a research facility, as defined in section 162.2, provided that the institution or research facility performs functions within the scope of accepted practices and disciplines associated with the institution or research facility.

3. a. The following shall apply to a person who commits animal torture:

(1) For the first conviction, the person is guilty of an aggravated misdemeanor. The sentencing order shall provide that the person submit to psychological evaluation and treatment according to terms required by the court. The costs of the evaluation and treatment shall be paid by the person. In addition, the sentencing order shall provide that the person complete a community work requirement, which may include a work requirement performed at an animal shelter or pound, as defined in section 162.2, according to terms required by the court.

(2) For a second or subsequent conviction, the person is guilty of a class "D" felony. The sentencing order shall provide that the person submit to psychological evaluation and treatment according to terms required by the court. The costs of the psychological evaluation and treatment shall be paid by the person.

b. The juvenile court shall have exclusive original jurisdiction in a proceeding concerning a child who is alleged to have committed animal torture, in the manner provided in section 232.8. The juvenile court shall not waive jurisdiction in a proceeding concerning an offense alleged to have been committed by a child under the age of seventeen.

Approved April 28, 2000

CHAPTER 1153

SCHOOL EMPLOYMENT OR VOLUNTEER RECORD CHECKS

S.F. 228

AN ACT authorizing school districts and nonpublic schools to perform certain abuse record checks.

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

Section 1. Section 235A.15, subsection 2, paragraph e, Code Supplement 1999, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (16) To the superintendent, or the superintendent's designee, of a school district or to the authorities in charge of an accredited nonpublic school for purposes of a volunteer or employment record check.

Sec. 2. Section 235B.6, subsection 2, paragraph e, Code Supplement 1999, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (8) To the superintendent, or the superintendent's designee, of a school district or to the authorities in charge of an accredited nonpublic school for purposes of a volunteer or employment record check.

Approved May 3, 2000

CHAPTER 1154

SUBSTANTIVE CODE CORRECTIONS

S.F. 2092

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 providing effective dates.

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

Section 1. Section 12C.6A, subsection 5, paragraph b, Code Supplement 1999, is amended to read as follows:

b. If any committee member, in the member's discretion, finds that the complaint has merit, the member may order the bank alleged to have failed to meet its community reinvestment responsibility to attend and participate in a meeting with the complainant. The committee member may specify who, at minimum, shall represent the ~~financial institution~~ bank at the meeting. At the meeting, or at any other time, the bank may, but is not required to, enter into an agreement with a complainant to correct alleged failings.

Sec. 2. Section 12C.25, unnumbered paragraph 2, Code Supplement 1999, is amended to read as follows:

The funds shall be used to receive and disburse moneys pursuant to section 12C.23, subsection 3, paragraph "d" and section 12C.23A, subsection 3, paragraph "d".

Sec. 3. Section 13B.4, subsection 4, paragraph c, unnumbered paragraph 2, Code Supplement 1999, is amended to read as follows:

d. Notwithstanding chapter 17A, the attorney may seek review of any action or intended action taken pursuant to paragraph ~~"d"~~ "c" by filing a motion with the court with jurisdiction over the original appointment for review. The motion must be filed within twenty days of any action taken by the state public defender. The attorney shall have the burden to establish by a preponderance of the evidence that the amount of compensation and expenses is reasonable and necessary to competently represent the client. The filing of a motion shall not delay the payment of the amount specified by the state public defender pursuant to this subsection.

Sec. 4. Section 13B.8, subsection 2, Code Supplement 1999, is amended to read as follows:

2. The state public defender may appoint ~~a local public defender~~ and may remove the local public defender, assistant local public defenders, clerks, investigators, secretaries, or other employees for cause. Each local public defender, and any assistant local public defender, must be an attorney admitted to the practice of law before the Iowa supreme court.

Sec. 5. Section 29B.20, Code 1999, is amended to read as follows:

29B.20 COMPLETE RECORD.

A sentence imposing a dishonorable discharge, discharge under other than honorable conditions, dismissal, or confinement shall not be adjudged unless a complete record of the proceedings and testimony has been made, counsel having the qualifications prescribed under this code was detailed to represent the accused, and a military judge was detailed to the trial, except in any case in which a military judge could not be detailed to the trial because of physical conditions or military exigencies. If a military judge was not detailed to the trial, the convening authority shall make a detailed written statement, to be appended to the record, stating the reason a military judge could not be detailed.

Sec. 6. Section 35C.1, subsection 1, Code 1999, is amended to read as follows:

1. In every public department and upon all public works in the state, and of the counties, cities, and school corporations of the state, ~~honorably discharged persons from the military or naval forces of the United States in any war in which the United States has been engaged, including the Korean Conflict at any time between June 25, 1950 and January 31, 1955, both dates inclusive, the Vietnam Conflict beginning August 5, 1964, and ending on May 7, 1975, both dates inclusive, and the Persian Gulf Conflict beginning August 2, 1990, and ending on the date specified by the president or the Congress of the United States as the date of permanent cessation of hostilities, both dates inclusive~~ veterans as defined in section 35.1, who are citizens and residents of this state are entitled to preference in appointment and employment over other applicants of no greater qualifications. ~~However, if the Congress of the United States enacts a date different from August 2, 1990, as the beginning of the Persian Gulf Conflict to determine the eligibility of a veteran for military benefits as a veteran of the Persian Gulf Conflict, the date enacted by the Congress of the United States shall be substituted for August 2, 1990.~~ The preference in appointment and employment for employees of cities under a municipal civil service is the same as provided in section 400.10. ~~For the purposes of this section service in World War II means service in the armed forces of the United States between December 7, 1941, and December 31, 1946, both dates inclusive.~~

Sec. 7. Section 37.9, unnumbered paragraph 6, Code Supplement 1999, is amended to read as follows:

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 ~~the~~ a five-member commission and five members of a seven-member commission shall constitute a quorum for the transaction of business. The secretary shall keep a complete record of its proceedings.

Sec. 8. Section 46.24, unnumbered paragraph 2, Code Supplement 1999, is amended to read as follows:

The state board of canvassers shall, at the time of canvassing the vote cast at a general election, open and canvass all of the returns for the judicial election. Each judge of the supreme court, court of appeals or district court including a district associate judge, full-time associate juvenile judge, or full-time associate probate judge, or a clerk of the district court who has received more affirmative than negative votes shall receive from the state board of canvassers an appropriate certificate so stating.

Sec. 9. Section 80.17, subsection 7, Code 1999, is amended to read as follows:

7. Division of capitol ~~security~~ police.

Sec. 10. Section 80.35, Code 1999, is amended to read as follows:

80.35 TRANSITION.

Persons employed by the department of general services as capitol security force officers shall be transferred to the division of capitol security of the department of public safety on July 1, 1976. Persons transferred pursuant to this section shall retain their positions as capitol ~~security~~ police officers, shall not be subject to the requirements and conditions of section 80.15, and shall remain under the Iowa public employees' retirement system. Persons employed after July 1, 1976 by the department of public safety as capitol ~~security~~ police officers within the division of capitol ~~security~~ police shall be subject to the requirements and conditions of section 80.15, except those requirements relating to age, and shall be subject to the Iowa public employees' retirement system. The minimum age for persons employed by the division of capitol ~~security~~ police shall be eighteen.

Sec. 11. Section 91C.8, subsection 4, Code Supplement 1999, is amended to read as follows:

4. If a citation is issued, the commissioner shall, within seven days, notify the contractor by service in the same manner as an original notice or by certified mail of the administrative penalty, if any, proposed to be assessed and that the contractor has fifteen working days within which to notify the commissioner that the ~~employer~~ contractor wishes to contest the citation or proposed assessment of penalty.

Sec. 12. Section 123.39, subsection 4, Code 1999, is amended to read as follows:

4. If the cause for suspension is a first offense violation of section 123.49, subsection 2, paragraph "h", the administrator or local authority shall impose a civil penalty in the amount of ~~three~~ five hundred dollars in lieu of suspension of the license or permit. Local authorities shall retain civil penalties collected under this paragraph if the proceeding to impose the penalty is conducted by the local authority. The division shall retain civil penalties collected under this paragraph if the proceeding to impose the penalty is conducted by the administrator of the division.

Sec. 13. Section 141A.8, subsection 7, Code Supplement 1999, is amended to read as follows:

7. When a care provider in the course of providing care sustains a significant exposure on the premises of a health ~~care~~ facility or while engaged in rendering aid or providing trans-

portation to an individual in circumstances which lead to the individual's presence at a health ~~care~~ facility, the individual to whom the care provider was exposed is deemed to consent to a test to be administered by the health ~~care~~ facility upon the written request of the exposed care provider for the express purpose of determining the presence of HIV infection in that individual. The sample and test results shall only be identified by a number and no reports otherwise required by this chapter shall be made which identify the individual tested. However, if the test results are positive, the health ~~care~~ facility shall notify the individual tested and ensure performance of counseling and reporting requirements of this chapter in the same manner as for an individual from whom actual consent was obtained.

Sec. 14. Section 161D.1, subsection 4, Code Supplement 1999, is amended to read as follows:

4. This ~~chapter~~ subchapter is not intended to affect the authority of the department of natural resources in its acquisition, development, and management of public lands within the counties represented by the authority.

Sec. 15. Section 161D.3, unnumbered paragraph 1, Code Supplement 1999, is amended to read as follows:

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

Sec. 16. Section 182.14, subsection 1, Code Supplement 1999, is amended to read as follows:

1. If approved by a majority of voters at a referendum, an assessment ~~to~~ shall be set by the board at not more than two cents for each pound of wool produced and sold by a producer and not more than ten cents per head on sheep sold by a producer.

Sec. 17. Section 184A.6, subsection 2, Code Supplement 1999, is amended to read as follows:

2. The council shall expend moneys from the account first for the payment of expenses for the collection of assessments, and then for the payment of expenses related to ~~connecting~~ conducting a referendum as provided in section 184A.12. The council shall expend remaining moneys for market development, producer education, and the payment of refunds to producers as provided in this chapter.

Sec. 18. Section 235A.18, subsection 1, paragraph b, Code Supplement 1999, is amended to read as follows:

b. Data sealed in accordance with this section shall be expunged eight years after the date the data was sealed. However, if the report data and the disposition data involve child abuse as defined in section 232.68, subsection 2, ~~paragraphs~~ paragraph "c" ~~and~~ or "e", the data shall not be expunged for a period of thirty years. Sealed data shall be made available to the department of justice upon request if the prosecutor's review committee is reviewing records or if a prosecuting attorney has filed a petition to commit a sexually violent predator under chapter 229A.

Sec. 19. Section 260G.6, Code Supplement 1999, is amended to read as follows:

260G.6 PROGRAM CAPITAL FUNDS ALLOCATION.

If moneys are appropriated by the general assembly to support program capital costs, the moneys shall be allocated according to rules adopted by the department of economic development pursuant to chapter 17A. In order to receive such moneys a program agreement approved by the community college board of directors must be in place, program capital cost requests shall be approved by the Iowa economic development board created in section 15.103, program capital cost requests shall be approved or denied not later than sixty days following receipt of the request by the department of economic development, and employer contributions toward program capital costs shall be certified and agreed to in the agreement.

Sec. 20. Section 317.1, subsection 1, Code 1999, is amended to read as follows:

1. Primary noxious weeds, which shall include quack grass (Agropyron repens), perennial sow thistle (Sonchus arvensis), Canada thistle (Cirsium arvense), bull thistle (Cirsium lanceolatum), European morning glory or field bindweed (Convolvulus arvensis), horse nettle (Solanum carolinense), leafy spurge (Euphorbia esula), perennial pepper-grass (Lepidium draba), Russian knapweed (Centaurea repens), buckthorn (Rhamnus, not to include Rhamnus frangula), and all other species of thistles belonging in genera of Cirsium and Carduus.~~)~~

Sec. 21. Section 321.34, subsection 15, Code Supplement 1999, is amended to read as follows:

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

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 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. 22. Section 321.49, subsection 3, Code Supplement 1999, is amended to read as follows:

3. A mobile home dealer who acquires a used mobile home~~,~~ or manufactured housing, titled in Iowa, and who does not apply for and obtain a certificate of title from the county treasurer of the dealer's county of residence within thirty days of the date of acquisition, as required under section 321.45, subsection 4, is subject to a penalty of ten dollars. A certificate of title shall not be issued to the mobile home dealer until the penalty is paid.

Sec. 23. Section 321.104, unnumbered paragraph 1, Code Supplement 1999, is amended to read as follows:

It is a misdemeanor, punishable as provided in section ~~321.482~~ 805.8 for any person to commit any of the following acts:

Sec. 24. Section 322.27, Code 1999, is amended to read as follows:

322.27 MANUFACTURER'S LICENSE.

A manufacturer, except an alien manufacturer represented by an importer, ~~distributor branch, factory representative or distributor representative~~ shall not engage in business as a manufacturer in this state or employ, appoint or maintain distributors or wholesalers~~,~~ ~~factory representatives or branches, distributor representatives or branches,~~ or dealers, without a license as provided in this chapter. However, new motor vehicle dealers may wholesale motor vehicles without an additional license and used motor vehicle dealers may wholesale used motor vehicles without an additional license.

Sec. 25. Section 322.30, Code 1999, is amended to read as follows:

322.30 DISPLAY.

The licenses of manufacturers~~, factory branches,~~ and distributors ~~and distributor branches~~ shall specify the location of the office ~~or branch~~ and must be conspicuously displayed at

such location. In case such location be changed, the department shall endorse the change of location on the license without charge if it be within the same municipality. A change of location to another municipality shall require a new license.

Sec. 26. Section 322C.9, subsection 2, Code 1999, is amended by striking the subsection.

Sec. 27. Section 322C.11, Code 1999, is amended to read as follows:

322C.11 PENALTIES.

A person violating a provision of section 322C.3~~,~~ or 322C.7 ~~or 322C.8~~ is guilty of a serious misdemeanor.

Sec. 28. Section 403A.22, subsection 5, Code Supplement 1999, is amended to read as follows:

5. Stock ownership in a corporation having such an interest shall not be deemed an interest ~~or~~ of, or ownership or control by, the person owning such stocks when less than five percent of the outstanding stock of the corporation is owned or controlled directly or indirectly by such person.

Sec. 29. Section 427A.12, subsections 3 and 4, Code Supplement 1999, are amended to read as follows:

3. The county auditor shall certify and forward one copy each of the statement to the state comptroller and to the director of revenue not later than January 15, 1974. ~~The director of revenue shall make any necessary corrections and certify to the state comptroller the amount of the personal property tax replacement base for each taxing district in the state, determined pursuant to subsection 2.~~

4. The personal property tax replacement base for each taxing district is permanent and shall not be adjusted, except that the department of ~~management~~ revenue and finance shall make any necessary corrections and shall make appropriate adjustments to reflect mergers, annexations, and other changes in taxing districts or their boundaries.

Sec. 30. Section 427A.12, subsections 5, 6, and 7, Code Supplement 1999, are amended by striking the subsections.

Sec. 31. Section 455B.165, subsection 7, paragraph d, subparagraph (2), Code 1999, is amended to read as follows:

(2) The spray irrigation equipment disperses manure through an orifice at a ~~rate~~ maximum pressure of not more than twenty-five pounds per square inch.

Sec. 32. Section 456A.20, subsection 2, Code Supplement 1999, is amended to read as follows:

2. The department shall deposit a portion of the moneys that it receives from selling trees and shrubs as provided in this section to the forestry management and enhancement fund as created in section 456A.21. The amount deposited in the fund shall equal five cents for each coniferous tree and ten cents for each hardwood tree and shrub ~~received from the sales~~ sold.

Sec. 33. Section 481C.3, Code Supplement 1999, is amended to read as follows:

481C.3 FUNDING.

~~Notwithstanding section 483A.30, the~~ The revenue from nonresident deer and wild turkey hunting licenses shall ~~first~~ be used to pay the salaries, support, and maintenance of the wild animal depredation unit established pursuant to section 481C.1. ~~The remaining revenue from nonresident deer and wild turkey hunting licenses shall be used to meet the requirements of section 483A.30.~~

Sec. 34. Section 572.23, subsection 2, Code Supplement 1999, is amended to read as follows:

2. If acknowledgment of satisfaction is not filed within thirty days after service of the demand in writing, the party serving the demand or causing the demand to be served may

file for record with the clerk of the district court a copy of the demand with proofs of service attached and endorsed and, in case of service by publication, a personal affidavit that personal service could not be made within this state. Upon completion of the requirements of this subsection, the record shall be constructive notice to all parties of the due forfeiture and cancellation of the lien. Upon the filing of the ~~forfeiture of the lien~~ demand with the required attachments, the clerk of the district court shall mail a file-stamped copy of the ~~cancellation~~ demand to both parties.

Sec. 35. Section 579B.4, subsection 3, Code Supplement 1999, is amended to read as follows:

3. Except as provided in chapter 581, a lien created under ~~this~~ section ~~until preserved~~ 579B.3 and a lien preserved under this section are superior to and shall have priority over a conflicting lien or security interest in the commodity, including a lien or security interest that was perfected prior to the creation of the lien under this chapter.

Sec. 36. Section 598B.204, subsection 4, Code Supplement 1999, is amended to read as follows:

4. A court of this state which has been asked to make a child-custody determination under this section, upon being informed that a child-custody proceeding has been commenced in, or a child-custody determination has been made by, a court of a state having jurisdiction under sections 598B.201 through 598B.203, shall immediately communicate with the other court. A court of this state which is exercising jurisdiction pursuant to sections 598B.201 through 598B.203, upon being informed that a child-custody proceeding has been commenced in, or a child-custody determination has been made by, a court ~~or~~ of another state under a statute similar to this section shall immediately communicate with the court of that state to resolve the emergency, protect the safety of the parties and the child, and determine a period for the duration of the temporary order.

Sec. 37. Section 598B.308, subsection 4, paragraph a, Code Supplement 1999, is amended to read as follows:

a. The child-custody determination has not been registered and confirmed under section 598B.305 and that ~~all~~ any of the following apply:

(1) The issuing court did not have jurisdiction under article II.

(2) The child-custody determination for which enforcement is sought has been vacated, stayed, or modified by a court having jurisdiction to do so under article II.

(3) The respondent was entitled to notice, but notice was not given in accordance with the standards of section 598B.108, in the proceedings before the court that issued the order for which enforcement is sought.

Sec. 38. Section 633.20A, Code Supplement 1999, is amended to read as follows:

633.20A PART-TIME ASSOCIATE PROBATE JUDGE — APPOINTMENT — REMOVAL — QUALIFICATIONS.

The chief judge of a judicial district may appoint a part-time associate probate judge and may remove the part-time associate probate judge for cause following a hearing. The part-time associate probate judge shall be an attorney admitted to practice law in this state and shall be qualified for the position by training and experience.

Sec. 39. Section 637.423, subsection 4, Code Supplement 1999, is amended to read as follows:

4. If a trust owns an interest in minerals, water, or other natural resources on or before July 1, ~~1999~~ 2000, the trustee may allocate receipts from the interest as provided in this section or in the manner used by the trustee before July 1, ~~1999~~ 2000. If the trust acquires an interest in minerals, water, or other natural resources after July 1, ~~1999~~ 2000, the trustee shall allocate receipts from the interest as provided in this section.

Sec. 40. Section 637.424, subsection 5, Code Supplement 1999, is amended to read as follows:

5. If a trust owns an interest in timberland on or before July 1, ~~1999~~ 2000, the trustee may allocate net receipts from the sale of timber and related products as provided in this section or in the manner used by the trustee before July 1, ~~1999~~ 2000. If the trust acquires an interest in timberland after July 1, ~~1999~~ 2000, the trustee shall allocate net receipts from the sale of timber and related products as provided in this section.

Sec. 41. Section 692.15, subsection 3, Code Supplement 1999, 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 in the county where the arrest or taking into custody occurred or to the juvenile court officer who received the referral.

Sec. 42. Section 805.10, Code 1999, is amended to read as follows:

805.10 REQUIRED COURT APPEARANCE.

1. Section 805.9 shall not apply to a scheduled violation in any of the following circumstances:

~~1.~~ a. When the violation charged involved or resulted in an accident or injury to property and the total damages are one thousand dollars or more, or in an injury to person.

~~2.~~ b. When the violation created an immediate threat to the safety of other persons or property because of highway conditions, visibility, traffic, repetition, or other circumstances.

c. When the violation charged involves the taking of an animal for which there is a civil damage assessment in addition to a criminal penalty.

2. In such cases, the defendant shall appear before the court and regular procedure shall apply. If an information is used the officer shall endorse thereon, "Court appearance required." If a citation and complaint is used, the officer shall strike out the space in which the defendant may admit the violation before a scheduled violations office and shall endorse thereon "Court appearance required" and the defendant shall appear before the court either in person or by attorney.

~~3. When the violation charged involves the taking of an animal for which there is a civil damage assessment in addition to a criminal penalty.~~

Sec. 43. Section 805.11, Code 1999, is amended to read as follows:

805.11 OTHER PENALTIES.

If the defendant is convicted of a scheduled violation, the penalty is the scheduled fine, without suspension of the fine prescribed in section 805.8 together with costs assessed and distributed as prescribed by section 602.8106, unless it appears from the evidence that the violation was of the type set forth in section 805.10, subsection 1 ~~or 2~~, paragraph "a" or "b", in which event the scheduled fine does not apply and the penalty shall be increased within the limits provided by law for the offense.

Sec. 44. Section 904.809, subsection 5, paragraph d, Code Supplement 1999, is amended to read as follows:

d. Of the amount credited to the inmate's general account, the department shall deduct an amount representing any other legal or administrative financial obligations of the inmate.

Sec. 45. Section 29B.116, Code 1999, is amended by striking the word "rape" and inserting in lieu thereof the words "sexual abuse".

Sec. 46. 1999 Iowa Acts, chapter 13, section 29, subsection 8, is amended to read as follows:

8. Section 28, repealing sections 309.42, 309.56, and ~~321.1~~ 321.21.

Sec. 47. 1999 Iowa Acts, chapter 55, section 5, is amended to read as follows:

SEC. 5. TRANSITION TO FISCAL YEAR. The limit on foster home liability established in section 237.13, subsection 6, Code 1999, in effect for the calendar year beginning January 1, 1999, shall apply through June 30, 1999. This section of this Act, being deemed of immediate importance, takes effect upon enactment.

Sec. 48. 1999 Iowa Acts, chapter 131, section 3, is amended to read as follows:

SEC. 3. EFFECTIVE DATE AND APPLICABILITY. This Act, being deemed of immediate importance, takes effect upon enactment, and shall apply to all claims of exemption under this ~~section~~ Act made on or after the day of enactment.

Sec. 49. Section 322C.8, Code 1999, is repealed.

Sec. 50. EFFECTIVE DATES.

1. This section, being deemed of immediate importance, takes effect upon enactment.
2. Section 46 of this Act, amending 1999 Iowa Acts, chapter 13, section 29, being deemed of immediate importance, takes effect upon enactment, and applies retroactively to April 7, 1999.
3. Section 47 of this Act, amending 1999 Iowa Acts, chapter 55, section 5, being deemed of immediate importance, takes effect upon enactment, and applies retroactively to April 23, 1999.
4. Section 48 of this Act, amending 1999 Iowa Acts, chapter 131, section 3, being deemed of immediate importance, takes effect upon enactment, and applies retroactively to May 17, 1999.

Approved May 3, 2000

CHAPTER 1155

DEPARTMENT OF INSPECTIONS AND APPEALS — DUTIES — DIVISIONS

S.F. 2390

AN ACT relating to the duties of divisions within the department of inspections and appeals and codifying the establishment and duties of the existing health facilities division.

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

Section 1. Section 10A.104, subsection 8, Code Supplement 1999, is amended to read as follows:

8. Establish by rule standards and procedures for certifying that targeted small businesses are eligible to participate in the procurement ~~set-aside~~ program established in sections 73.15 through 73.21. The procedure for determination of eligibility shall not include self-certification by a business. Rules and guidelines adopted pursuant to this subsection are subject to review and approval by the director of the department of management. The director shall maintain a current directory of targeted small businesses which have been certified pursuant to this subsection.

Sec. 2. Section 10A.106, Code Supplement 1999, is amended to read as follows:

10A.106 DIVISIONS OF THE DEPARTMENT.

The department is comprised of the following divisions:

1. Administrative hearings division.
2. Audits division.

3. Investigations division.
4. Inspections division.
5. Health facilities division.

The allocation of departmental duties to the divisions of the department in sections 10A.302, 10A.402, ~~and~~ 10A.502, 10A.702, and 10A.801 does not prohibit the director from reallocating departmental duties within the department. The director shall not reallocate any of the duties of the division of administrative hearings, created by section 10A.801, to any other unit of the department.

Sec. 3. Section 10A.402, subsection 4, Code 1999, is amended by striking the subsection.

Sec. 4. Section 10A.502, Code 1999, is amended to read as follows:

10A.502 RESPONSIBILITIES.

The administrator shall coordinate the division's conduct of various inspections as otherwise provided for by law including but not limited to the following:

1. Inspections ~~of land situated outside of the state which is proposed for sale within the state~~ and licensing procedures related to social and charitable gambling pursuant to chapter 99B.

2. Inspections of food establishments, including restaurants, hotels, food and beverage vending machines, state educational, charitable, correctional, and penal institutions, and sanitation inspections in any locality of the state upon the written petition of five or more residents of a particular locality.

~~3. Inspections and other licensing procedures relative to the hospice program, hospitals, and health care facilities. The division shall be the sole designated licensing authority for these programs and facilities.~~

~~4. Inspections relative to hospital and health care facility construction projects and licensing boards established within the department of public health, except the board of medical examiners, the board of pharmacy examiners, the board of dental examiners, and the board of nursing.~~

~~5. Inspections of child foster care facilities and private institutions for the care of dependent, neglected, and delinquent children.~~

Article VII
HEALTH FACILITIES DIVISION[1]

Sec. 5. NEW SECTION. 10A.701 DEFINITIONS.

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

1. "Administrator" means the chief administrator who shall coordinate the administration of this division.

2. "Division" means the health facilities division of the department of inspections and appeals.

Sec. 6. NEW SECTION. 10A.702 RESPONSIBILITIES.

The administrator shall coordinate the division's conduct of various inspections and investigations as otherwise provided by law, including but not limited to, all of the following:

1. Investigations relative to the standards and practices of hospitals, hospices, birth centers, and health care facilities.

2. Inspections and other licensing procedures relative to the hospice program, hospitals, birth centers, and health care facilities. The division is designated as the sole licensing authority for these programs and facilities.

3. Inspections relative to hospital and health care facility construction projects.

4. Inspections of child foster care facilities and private institutions for the care of dependent, neglected, and delinquent children.

Approved May 3, 2000

[1] Probably intended to amend 1999 Iowa Code, chapter 10A, article VII headnote

CHAPTER 1156

INVESTMENTS BY CITY HOSPITALS

S.F. 2419

AN ACT providing for limitations on investments by city hospitals.

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

Section 1. Section 12B.10, subsection 6, Code 1999, is amended by adding the following new paragraph:

NEW PARAGRAPH. i. Investments made by city hospitals as provided in section 392.6. However, investments by city hospitals are limited to the following:

(1) The same types of investments as the treasurer of state and other state agencies may make under this section.

(2) Investment in common stocks.

Approved May 3, 2000

CHAPTER 1157

RETIRED UNITED STATES ARMED FORCES MOTOR VEHICLE LICENSE PLATES

S.F. 2455

AN ACT relating to eligibility for United States armed forces retired special motor vehicle license plates.

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

Section 1. Section 321.34, subsection 19, Code Supplement 1999, is amended to read as follows:

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 ~~served twenty years or longer in~~ is recognized by the United States armed forces ~~or is a person who served a minimum of ten years and received an honorable discharge from service due to a medical disqualification~~ as retired from the United States armed forces.

Approved May 3, 2000

CHAPTER 1158

ANNUAL FINANCIAL REPORT FOR URBAN RENEWAL AREAS — FILING DEADLINE

S.F. 2459

AN ACT relating to the deadline for municipalities to file annual financial reports for urban renewal areas.

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

Section 1. Section 403.23, subsection 1, unnumbered paragraph 1, Code Supplement 1999, is amended to read as follows:

On or before ~~September 30~~ December 1 of each year, the municipality shall submit an annual financial report containing the information required in section 403.15, subsection 5, to the department of management and to the county auditor of the county in which the municipality is located. In addition to the information contained in the report, the municipality shall provide the following information to the department and to the county auditor:

Sec. 2. Section 403.23, Code Supplement 1999, is amended by adding the following new subsection:

NEW SUBSECTION. 3. If a municipality does not file the annual report with the department of management and the county auditor by December 1, the county treasurer shall withhold disbursement of incremental taxes to the municipality until the annual report is filed beginning immediately with the next following disbursement of taxes. The county auditor shall notify the county treasurer if taxes are to be withheld.

Approved May 3, 2000

CHAPTER 1159

CHILD CUSTODY, VISITATION, AND SUPPORT — MEDIATION

H.F. 683

AN ACT relating to mediation services related to custody, visitation, and support of a child, and providing effective dates.

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

Section 1. INTENT OF THE GENERAL ASSEMBLY. It is the intent of the general assembly that parties to family law actions maintain responsibility for their decision making, improve their communications concerning their children, and commit themselves to the decisions they reach. The best interests of children are normally served through maintenance of maximum contact with both parents, with a minimum of parental conflict.

Because research demonstrates that parental conflict may result in emotional and psychological damage to parties and their children, the general assembly finds that mediation should be utilized to the greatest extent possible in the resolution of domestic relations disputes in this state.

Sec. 2. Section 598.7A, Code 1999, is amended by striking the section and inserting in lieu thereof the following:

598.7A MEDIATION.

1. The district court may, on its own motion or on the motion of any party, order the parties to participate in mediation in any dissolution of marriage action or other domestic relations action. Mediation performed under this section shall comply with the provisions of chapter 679C. The provisions of this section shall not apply if the action involves a child support or medical support obligation enforced by the child support recovery unit. The provisions of this section shall not apply to actions which involve domestic abuse pursuant to chapter 236. The provisions of this section shall not affect a judicial district's or court's authority to order settlement conferences pursuant to rules of civil procedure. The court shall, on application of a party, grant a waiver from any court-ordered mediation under this section if the party demonstrates that a history of domestic abuse exists as specified in section 598.41, subsection 3, paragraph "j".

2. The supreme court shall establish a dispute resolution program in family law cases that includes the opportunities for mediation and settlement conferences. Any judicial district may implement such a dispute resolution program, subject to the rules prescribed by the supreme court.

3. The supreme court shall prescribe rules for the mediation program, including the circumstances under which the district court may order participation in mediation.

4. Any dispute resolution program shall comply with all of the following standards:

a. Participation in mediation shall include attendance at a mediation session with the mediator and the parties to the action, listening to the mediator's explanation of the mediation process, presentation of one party's view of the case, and listening to the response of the other party. Participation in mediation does not require that the parties reach an agreement.

b. The parties may choose the mediator, or the court shall appoint a mediator. A court-appointed mediator shall meet the qualifications established by the supreme court.

c. Parties to the mediation have the right to advice and presence of counsel at all times.

d. The parties to the mediation shall present any agreement reached through the mediation to their attorneys, if any. A mediation agreement reached by the parties shall not be enforceable until approved by the court.

e. The costs of mediation shall be borne by the parties, as agreed to by the parties, or as ordered by the court, and may be taxed as court costs. Mediation shall be provided on a sliding fee scale for parties who are determined to be indigent pursuant to section 815.9.

5. The supreme court shall prescribe qualifications for mediators under this section on or before January 1, 2001. The qualifications shall include but are not limited to the ethical standards to be observed by mediators. The qualifications shall not include a requirement that the mediator be licensed to practice any particular profession.

Sec. 3. SUPREME COURT REPORT. The supreme court shall submit a report to the general assembly by January 1, 2001, which shall include any recommendations for implementing, modifying, and funding this Act.

Sec. 4. EFFECTIVE DATE. This Act takes effect July 1, 2001, except that[1] section 3 of this Act takes effect upon enactment.

Approved May 3, 2000

[1] See chapter 1232, §86 herein

CHAPTER 1160

DEPARTMENT OF NATURAL RESOURCES — FORESTS AND FORESTRY DIVISION

H.F. 2090

AN ACT changing the name of the forests and forestry division of the department of natural resources to the forests and prairies division and expanding its responsibilities.

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

Section 1. Section 455A.7, subsection 1, paragraph b, Code 1999, is amended to read as follows:

b. Forests and ~~forestry~~ prairies division which is responsible for administering programs relating to state forests, ~~and~~ forestry, and prairie management assistance to private and public landowners, and for the operation of the state nursery under section 456A.20.

Sec. 2. Section 456A.21, subsection 1, Code Supplement 1999, is amended to read as follows:

1. A forestry management and enhancement fund is created in the state treasury under the control of the department's forests and ~~forestry~~ prairies division created in section 455A.7. The fund is composed of moneys deposited into the fund pursuant to section 456A.20, moneys appropriated by the general assembly, and moneys available to and obtained or accepted by the division or the department from the United States or private sources for placement in the fund.

Approved May 3, 2000

CHAPTER 1161

COMMUNICATIONS BETWEEN POSTSECONDARY SCHOOLS AND STUDENTS' PARENTS OR GUARDIANS

H.F. 2437

AN ACT relating to disclosure by a postsecondary education institution of information to the parent or guardian of a student.

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

Section 1. Section 22.7, subsection 1, Code Supplement 1999, is amended to read as follows:

1. Personal information in records regarding a student, prospective student, or former student maintained, created, collected or assembled by or for a school corporation or educational institution maintaining such records. This subsection shall not be construed to prohibit a postsecondary education institution from disclosing to a parent or guardian information regarding a violation of a federal, state, or local law, or institutional rule or policy governing the use or possession of alcohol or a controlled substance if the child is under the age of twenty-one years and the institution determines that the student committed a disciplinary violation with respect to the use or possession of alcohol or a controlled substance regardless of whether that information is contained in the student's education records.

Sec. 2. STATE BOARD OF REGENTS STUDY — COMMUNICATION WITH PARENTS AND GUARDIANS OF STUDENTS. The state board of regents, in consultation with the community college council, the Iowa association of community college trustees, and the Iowa association of independent colleges and universities, shall conduct a study and recommend methods for opening or expanding communication with parents and guardians of students under the age of twenty-one years who are enrolled in Iowa's postsecondary institutions. The communication studied should include information relating to, but not limited to, the student's grades or any correlation between student grades and violations of a federal, state, or local law, or institutional rule or policy governing the use or possession of alcohol or a controlled substance except as otherwise provided by the law. The results of the study and any recommendations shall be submitted to the senate and house standing committees on education by December 1, 2000.

Approved May 3, 2000

CHAPTER 1162

REPORTS AND PROCEEDINGS REGARDING SCHOOL VIOLENCE AND OTHER ACTIVITIES — IMMUNITY

H.F. 2473

AN ACT providing civil and criminal immunity for a school employee related to the employee's participation in reporting and investigating violence, threats of violence, or other inappropriate activity against a school employee or student in a school building, on school grounds, or at a school-sponsored function.

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

Section 1. NEW SECTION. 280.27 REPORTING VIOLENCE — IMMUNITY.
An employee of a school district, an accredited nonpublic school, or an area education agency who participates in good faith and acts reasonably in the making of a report to, or investigation by, an appropriate person or agency regarding violence, threats of violence, or other inappropriate activity against a school employee or student in a school building, on school grounds, or at a school-sponsored function shall be immune from civil or criminal liability relating to such action, as well as for participating in any administrative or judicial proceeding resulting from or relating to the report or investigation.

Sec. 2. NEW SECTION. 613.20 IMMUNITY FROM CIVIL SUIT.
An employee of an accredited public school district, accredited nonpublic school, or area education agency shall be immune from civil suit for reasonable acts undertaken in good faith relating to participation in the making of a report and any resulting investigation or administrative or judicial proceedings regarding violence, threats of violence, or other inappropriate activity against a school employee or student, pursuant to the provisions of section 280.27.

Approved May 3, 2000

CHAPTER 1163

IOWA EDUCATIONAL SAVINGS PLAN TRUST

H.F. 2550

AN ACT relating to the Iowa educational savings plan trust and providing an effective date.

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

Section 1. Section 12D.1, Code 1999, is amended by adding the following new subsection:
NEW SUBSECTION. 0A. "Account balance limit" means the maximum allowable aggregate balance of accounts established for the same beneficiary. Account earnings, if any, are included in the account balance limit.

Sec. 2. Section 12D.3, subsection 1, paragraph a, Code Supplement 1999, is amended to read as follows:
a. Each participation agreement may require a participant to agree to invest a specific amount of money in the trust for a specific period of time for the benefit of a specific beneficiary. A participant shall not be required to make an annual contribution on behalf of a beneficiary. The minimum contribution per beneficiary per year, in a year in which a participant is making a contribution, shall be fifty dollars~~, and the~~. The maximum contribution that may be deducted for Iowa income tax purposes shall not exceed two thousand dollars per beneficiary per year adjusted annually to reflect increases in the consumer price index. ~~However, the~~ The treasurer of state ~~may~~ shall set ~~a maximum, as necessary,~~ an account balance limit to maintain compliance with section 529 of the Internal Revenue Code. A contribution shall not be permitted to the extent it causes the aggregate balance of all accounts established for the same beneficiary to exceed the applicable account balance limit.

Sec. 3. Section 12D.3, subsection 2, Code Supplement 1999, is amended to read as follows:
2. Beneficiaries designated in participation agreements may be designated from date of birth up to, but not including, their eighteenth birthday. A substitute beneficiary may be older than age eighteen provided that the substitute beneficiary is not older than the original beneficiary ~~when the substitution is made~~.

Sec. 4. Section 12D.3, subsection 5, paragraph a, Code Supplement 1999, is amended to read as follows:
a. A beneficiary under a participation agreement may be changed as permitted under rules adopted by the treasurer of state upon written request of the participant ~~prior to the date of admission of the beneficiary to an institution of higher education~~ as long as the substitute beneficiary is eligible for participation.

Sec. 5. Section 422.7, subsection 32, paragraph a, Code 1999, is amended by striking the paragraph and inserting in lieu thereof the following:
a. Subtract the maximum contribution that may be deducted for Iowa income tax purposes as a participant in the Iowa educational savings plan trust pursuant to section 12D.3, subsection 1, paragraph "a".

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

Approved May 3, 2000

CHAPTER 1164

INTEREST ON DELINQUENT IOWA EGG COUNCIL ASSESSMENTS

H.F. 2561

AN ACT providing for interest on delinquent assessments payable to the Iowa egg council.

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

Section 1. Section 184.3, Code 1999, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The council may charge interest on any amount of the assessment that is delinquent. The rate of interest shall not be more than the current rate published in the Iowa administrative bulletin by the department of revenue and finance pursuant to section 421.7. The interest amount shall be computed from the date the assessment is delinquent, unless the council designates a later date. The interest amount shall accrue for each month in which there is delinquency calculated as provided in section 421.7, and counting each fraction of a month as an entire month. The interest amount due shall become a part of the assessment due.

Approved May 3, 2000

CHAPTER 1165

LASCIVIOUS ACTS — ADDITIONAL SENTENCE

S.F. 2265

AN ACT to provide an additional sentence of parole or work release for certain persons who commit the crime of lascivious acts with a child.

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

Section 1. Section 709.8, unnumbered paragraph 2, Code 1999, is amended to read as follows:

Any person who violates a provision of this section shall, upon conviction, be guilty of a class "D" felony. A person who violates a provision of this section and who is sentenced to a term of confinement shall also be sentenced to an additional term of parole or work release not to exceed two years. The board of parole shall determine whether the person should be released on parole or placed in a work release program. The sentence of an additional term of parole or work release supervision shall commence immediately upon the expiration of the preceding sentence and shall be under the terms and conditions as set out in chapter 906. Violations of parole or work release shall be subject to the procedures set out in chapter 905 or 908 or rules adopted under those chapters. The sentence of an additional term of parole or work release shall be consecutive to the original term of confinement.

Approved May 4, 2000

CHAPTER 1166

IOWA FINANCE AUTHORITY

H.F. 2373

AN ACT relating to the Iowa finance authority by providing for the issuance of closing protection letters, amending provisions regarding mortgage release certificates, and providing for the allocation of the state ceiling of federally tax-exempt private activity bonds.

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

Section 1. Section 16.91, subsection 2, Code 1999, is amended to read as follows:

2. A title guaranty, closing protection letter, or gap coverage issued under this program is an obligation of the division only and claims are payable solely and only out of the moneys, assets, and revenues of the title guaranty fund and are not an indebtedness or liability of the state. The state is not liable on ~~the guaranties~~ any guaranty, closing protection letter, or gap coverage.

Sec. 2. Section 16.92, subsection 1, paragraph f, subparagraph (4), Code Supplement 1999, is amended to read as follows:

(4) If after payment of the unpaid balance of the loan secured by the mortgage, the mortgage continues to secure any unpaid obligation due the mortgagee or any unfunded commitment by the mortgagor to the mortgagee, ~~the legal description of the property that will continue to be subject to the mortgage, and~~ the legal description of the property that will be released from the mortgage.

Sec. 3. Section 16.92, subsection 2, paragraph a, subparagraph (1), subparagraph subdivision (b), Code Supplement 1999, is amended to read as follows:

(b) The statement contains the legal description of the property to be released from the mortgage ~~and the legal description of the property that will continue to be subject to the mortgage~~.

Sec. 4. Section 16.92, subsection 3, paragraph d, subparagraph (2), Code Supplement 1999, is amended to read as follows:

(2) A statement that the certificate is a partial release of the mortgage~~,~~ and the legal description of the property that will be released from the mortgage~~, and the legal description of the property that will continue to be subject to the mortgage~~.

Sec. 5. Section 16.92, subsection 7, Code Supplement 1999, is amended to read as follows:

7. PRIOR MORTGAGES.

a. If the real estate lender or closer has notified the division that a mortgage has been paid in full by someone other than the real estate lender or closer, or was paid by the real estate lender or closer under a previous transaction, and an effective release has not been filed of record, the division may execute and record a certificate of release without certification by the real estate lender or closer that payment was made pursuant to a payoff statement and the date payment was received by the mortgagee. A certificate of release filed pursuant to this subsection is subject to the requirements of subsection 2, paragraph "c".

b. For purposes of this subsection, an effective release has not been filed of record if there appears that a mortgagee in the record chain of title to the mortgage has not, either on the mortgagee's own behalf or by the mortgagee's duly appointed servicer or attorney in fact as established of record by a filed servicing agreement or power of attorney, filed of record either an assignment of the mortgage to another mortgagee in the record chain of title to the

mortgage or a release of the mortgagee's interest in the mortgage. For the purposes of this subsection and subsection 2, paragraph "c", "mortgage servicer" includes a mortgagee for which an effective release has not been filed of record as provided in this paragraph.

Sec. 6. NEW SECTION. 16.93 CLOSING PROTECTION LETTERS.

1. The authority through the title guaranty division may issue a closing protection letter to a person to whom a proposed title guaranty is to be issued, upon the request of the person, if the division issues a commitment for title guaranty or title guaranty certificate. The closing protection letter shall conform to the terms of coverage and form of the instrument as approved by the division board and may indemnify a person to whom a proposed title guaranty is to be issued against loss of settlement funds due to only the following acts of the division's named participating attorney or participating abstractor:

a. Theft of settlement funds.

b. Failure by the participating attorney or participating abstractor to comply with written closing instructions of the person to whom a proposed title guaranty is to be issued relating to title certificate coverage when agreed to by the participating attorney or participating abstractor.

2. A closing protection letter shall only be issued to a person to whom a proposed title guaranty is to be issued for real property transactions in which the division has committed to issue an owner or lender certificate and for which the division receives a premium and other payments or fees for a title guaranty certificate or other coverage.

3. The division board shall establish the amount of coverage to be provided and may distinguish between classes of property including, but not limited to, residential, agricultural, or commercial, provided that the total amount of coverage provided by the closing protection letter shall not exceed the amount of the commitment or title guaranty to be issued. Liability under the closing protection letter shall be coextensive with liability under the certificate to be issued in connection with a transaction such that payments under the terms of the closing protection letter shall reduce by the same amount the liability under the title guaranty certificate and payment under the title guaranty certificate shall reduce the liability under the terms of the closing protection letter.

4. The division may adopt a required fee for providing closing protection letter coverage.

5. The division shall not provide any other coverage which purports to indemnify against improper acts or omissions of a person with regard to escrow, settlement, or closing services.

6. The authority shall adopt rules pursuant to chapter 17A as necessary to administer this section.

Sec. 7. STUDY. The treasurer of state or the designee of the treasurer of state, the auditor of state or the designee of the auditor of state, the director of the department of economic development or the designee of the director, and the executive director of the Iowa finance authority or the designee of the executive director shall submit a joint report to the general assembly regarding proposals for a new allocation method for the state ceiling allocation under section 7C.4A, subsection 5. The report shall include, but shall not be limited to, a competitive rating system for applications and a method for allocating the state ceiling to political subdivisions of different sizes. The report shall be submitted to the general assembly by December 1, 2000.

Sec. 8. STATE CEILING ALLOCATION. For the calendar year beginning January 1, 2001, applications for the state ceiling allocation under section 7C.4A, subsection 5, shall not be approved prior to March 1.

Approved May 4, 2000

CHAPTER 1167

COMMUNITY COLLEGE GOVERNANCE

H.F. 2433

AN ACT relating to community college governance.

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

Section 1. Section 256.7, Code Supplement 1999, is amended by adding the following new subsection:

NEW SUBSECTION. 22. Adopt rules directing the community colleges to annually and uniformly submit data from the most recent fiscal year to the division of community colleges and workforce preparation, using criteria determined and prescribed by the division via the management information system. Financial data submitted to the division by a community college shall be broken down by fund. Community colleges shall provide data to the division by a deadline set by the division. The deadline shall be set for a date that permits the division to include the data in a report submitted for state board approval and for review by December 15 of each year by the house and senate standing education committees and the joint subcommittee on education appropriations.

Sec. 2. Section 256.9, Code Supplement 1999, is amended by adding the following new subsection:

NEW SUBSECTION. 49. Reconcile, with the assistance of the community colleges, audited financial statements and the financial data submitted to the department. The reconciliation shall include an analysis of funding by funding source.

Sec. 3. Section 256.31, Code 1999, is amended by adding the following new subsection:

NEW SUBSECTION. 4. a. The council shall prepare a written five-year statewide strategic plan at least once every five years for Iowa's community colleges in consultation with a working group of stakeholders. The working group shall be composed of thirteen members appointed as follows:

(1) The governor shall appoint one member.

(2) The Iowa association of community college trustees shall appoint one member.

(3) The Iowa association of community college presidents shall appoint one member.

(4) The administrator of the division of community colleges and workforce preparation of the department of education or the administrator's designee.

(5) The director of the department of workforce development or the director's designee.

(6) The director of the department of economic development or the director's designee.

(7) The president of the senate, after consultation with the majority leader of the senate, shall appoint one legislative member.

(8) The minority leader of the senate shall appoint one legislative member.

(9) The speaker of the house shall appoint one legislative member.

(10) The minority leader of the house of representatives shall appoint one legislative member.

(11) The Iowa association of school boards shall appoint one member.

(12) The Iowa state education association shall appoint one member.

(13) The Iowa association of business and industry shall appoint one member.

b. A legislative member is eligible for per diem and expenses as provided in section 2.10. Appointments to the task force are subject to the requirements of sections 69.16 and 69.16A.

c. The plan shall be submitted to the state board of education for approval and adoption.

Sec. 4. COMMUNITY COLLEGE DATA COMPARISON AND PROGRESS REPORT. The director of the department of education shall provide the following:

1. A comparison of the data elements collected by the basic educational data elements survey for K-12 schools to the data being collected by the management information system

for community colleges to the chairpersons and ranking members of the joint subcommittee on education appropriations by January 15, 2001.

2. A report on the progress toward implementation of the management information system to the legislative fiscal bureau and department of management by June 30, 2000.[1]

3. An update on the progress toward implementation of the management information system to the house and senate standing education committees and the joint subcommittee on education appropriations by January 15, 2001.

The report and the update required pursuant to subsections 2 and 3 shall include, but shall not be limited to, information on the total amounts appropriated and expended for purposes of the management information system, the amount needed to complete the system, the hardware and software needed, and a description of the information the complete system is capable of providing.

4. A plan to improve sharing of data on student academic performance and career planning between school districts and community colleges. The plan shall be developed utilizing community college personnel and the bureau of community colleges.

5. A report on strategic planning transmitted to the senate and house standing committees on education and the joint appropriations subcommittee on education by January 15, 2001.

Sec. 5. INITIAL STATEWIDE STRATEGIC PLAN. Notwithstanding section 256.31, subsection 4, the state board of education shall submit a preliminary report regarding the initial statewide strategic plan by December 1, 2000. The department shall approve, adopt, and implement the initial plan by July 1, 2001.

Approved May 4, 2000

CHAPTER 1168

NONHIGHWAY TRANSPORTATION

H.F. 2477

AN ACT relating to nonhighway transportation, including aircraft registration and passenger rail service.

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

Section 1. Section 327J.1, Code 1999, is amended by adding the following new subsection:

NEW SUBSECTION. 5. "Midwest regional rail system" means the passenger rail system identified through a multistate planning effort in cooperation with AMTRAK.

Sec. 2. Section 327J.3, subsections 2 through 4, Code 1999, are amended by striking the subsections and inserting in lieu thereof the following:

2. The director may enter into agreements with AMTRAK and other states associated with the midwest regional rail system for the purpose of developing a rail passenger system serving the midwest, including service from Chicago, Illinois, to Omaha, Nebraska, through Iowa. The agreements may include any of the following:

a. Cost-sharing agreements associated with initiating service, capital costs, operating subsidies, and other costs necessary to develop and maintain service.

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[1] See chapter 1232, §87 herein

b. Joint powers agreements and other institutional arrangements associated with the administration, management, and operation of a midwest regional rail system.

3. The director shall enter into discussions with members of Iowa's congressional delegation to foster rail passenger service in this state and the midwest and to maximize the level of federal funding for the service, including funding for the midwest regional rail system.

4. The director may provide assistance and enter into agreements with cities along the proposed route of the midwest regional rail system or other passenger rail system serving the midwest to ensure that rail stations and terminals are designed and developed in accordance with the following objectives:

a. To meet safety and efficiency requirements outlined by AMTRAK and the federal railroad administration.

b. To aid intermodal transportation.

c. To encourage economic development.

5. The director shall report annually to the general assembly concerning the development and operation of the midwest regional rail system and the state's passenger rail service.

Sec. 3. Section 328.35, subsection 1, Code 1999, is amended by adding the following new paragraph:

NEW PARAGRAPH. e. An aircraft which is displayed in a museum.

Sec. 4. LIMITATION ON EXPENDITURE OF FUNDS FOR PASSENGER RAIL SERVICE. 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 for loans, grants, or other financial assistance for passenger rail service.

Approved May 4, 2000

CHAPTER 1169

TAXATION OF SALE OF LIVESTOCK EAR TAGS

H.F. 2569

AN ACT exempting the sale of livestock ear tags by certain nonprofit organizations from the sales and use taxes.

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

Section 1. Section 422.45, Code Supplement 1999, is amended by adding the following new subsection:

NEW SUBSECTION. 57. The gross receipts from the sales of livestock ear tags by a nonprofit organization whose income is exempt from federal taxation under section 501(c)(6) of the Internal Revenue Code where the proceeds are used in bovine research programs selected or approved by such organization.

Approved May 4, 2000

CHAPTER 1170

SCHOOL AND SCHOOL DISTRICT ACCREDITATION STANDARDS

H.F. 2474

AN ACT providing for the adoption of administrative rules requiring school districts and accredited nonpublic schools to adopt policies relating to health services, media services programs and guidance programs as part of the accreditation standards applicable to school districts.

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

Section 1. Section 256.7, Code Supplement 1999, is amended by adding the following new subsection:

NEW SUBSECTION. 22. Adopt rules on or before January 1, 2001, to require school districts and accredited nonpublic schools to adopt local policies relating to health services, media services programs and guidance programs, as part of the general accreditation standards applicable to school districts pursuant to section 256.11. This subsection shall be applicable strictly for reporting purposes and shall not be interpreted to require school districts and accredited nonpublic schools to provide or offer health services, media services programs, or guidance programs.

Approved May 5, 2000

CHAPTER 1171

DEPARTMENT OF PERSONNEL — MISCELLANEOUS PROVISIONS

H.F. 2463

AN ACT relating to the department of personnel by providing for the duties of the department, the administration of the department, and benefits provided state employees, and providing effective and retroactive applicability dates.

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

Section 1. Section 19A.1, subsection 2, Code 1999, is amended to read as follows:

2. The department is the central agency responsible for state personnel management, including the following:

a. Policy and program development, workforce planning, and research.

b. Employment activities and transactions, including recruitment, ~~testing~~ examination, and certification of personnel seeking employment or promotion.

c. Compensation and benefits, including position classification, wages and salaries, and employee benefits. Employee benefits include, but are not limited to, group medical, dental, life, and long-term disability insurance, workers' compensation, unemployment benefits, sick leave, deferred compensation, holidays and vacations, tuition reimbursement, and educational leaves. Employee benefits also include the Iowa department of public safety peace officers' retirement, accident, and disability system and the Iowa public employees' retirement system, which are maintained as distinct and independent systems within the department.

d. Equal employment opportunity, ~~and~~ affirmative action, and workforce diversity programs.

e. Education, ~~and~~ training, and workforce development programs.

f. Personnel records and administration, including the audit of all personnel-related documents.

g. Employment relations, including the negotiation and administration of collective bargaining agreements on behalf of the executive branch of the state and its departments and agencies as provided in chapter 20. However, the state board of regents, for the purposes of implementing and administering collective bargaining pursuant to chapter 20, shall act as the exclusive representative of the state with respect to its faculty, scientific, and other professional staff.

h. The coordination and management of the state's human resource information system, except as otherwise required for those employees governed by chapter 262.

Sec. 2. Section 19A.1, subsection 3, Code 1999, is amended to read as follows:

3. The following part-time boards and commissions are within the department:

a. The board of trustees of the public safety peace officers' retirement, accident, and disability system, created by section 97A.5.

b. The investment board of the Iowa public employees' retirement system created by section 97B.8.

c. The ~~affirmative action~~ equal opportunity in employment task force created pursuant to executive order, or its successor.

Sec. 3. Section 19A.1A, subsection 1, Code Supplement 1999, is amended to read as follows:

1. The chief administrative officer of the department is the director. The director shall be appointed by the governor, subject to confirmation by the senate. The director serves at the pleasure of the governor and is subject to reconfirmation after four years in office. The person appointed shall be professionally qualified by education and experience in the field of public personnel administration, including the application of merit principles in public employment, and the appointment shall be made without regard for political affiliation. The director shall not be a member of any local, state, or national committee of a political party, an officer or member of a committee in any partisan political club or organization, or hold or be a candidate for a paid elective public office. The director is subject to the restrictions on political activity provided in section 19A.18 ~~for employees in the classified service~~. The governor shall set the salary of the director within a range established by the general assembly.

Sec. 4. Section 19A.1A, subsection 3, Code Supplement 1999, is amended to read as follows:

3. The director may establish by rule divisions and other subunits as necessary for the organization of the department. The director may also establish regional field ~~service~~ offices staffed by employees of the department or the executive departments in which they are located. The functions and staffs of the regional offices are subject to policies set by the director ~~of the department of personnel~~.

Sec. 5. Section 19A.2A, Code 1999, is amended to read as follows:

19A.2A PURPOSE AND APPLICABILITY OF CHAPTER.

The general purpose of this chapter is to establish for the state of Iowa a system of personnel administration based on merit principles and scientific methods to govern the appointment, compensation, promotion, welfare, development, transfer, layoff, removal, and discipline of its civil employees, and other incidents of state employment. It is also the purpose of this chapter to promote the coordination of personnel rules and policies with collective bargaining agreements negotiated under chapter 20.

All appointments and promotions to positions ~~in~~ covered by the state merit system shall be made solely on the basis of merit and fitness, to be ascertained by ~~competitive~~ examinations or other appropriate screening methods, except as otherwise specified in this chapter.

Provisions of this chapter pertaining to qualifications, examination, ~~competitive appointment~~ certification, probation, and just cause ~~hearings~~ apply only to employees covered by the merit system.

Sec. 6. Section 19A.3, subsections 5, 8, 10, 15, and 20, Code 1999, are amended to read as follows:

5. All presidents, deans, directors, teachers, professional and scientific personnel, and student employees under the jurisdiction of the state board of regents. The state board of regents shall adopt rules not inconsistent with the objectives of this chapter for all of its employees not cited specifically in this subsection. The rules are subject to approval by the director ~~of the department of personnel~~. If at any time the director determines that the board of regents merit system ~~does~~ rules do not comply with the intent of this chapter, the director may direct the board to correct the rules. The rules of the board are not in compliance until the corrections are made.

8. ~~Part-time persons~~ Persons who are paid a fee on a contract-for-services basis.

10. Residents, patients, or inmates working in state institutions, or persons on parole working in work experience programs ~~for a period no longer than one year~~.

15. The chief deputy administrative officer and each division ~~head~~ administrator of each executive department not otherwise specifically provided for in this section, and physicians not otherwise specifically provided for in this section. As used in this subsection, "division ~~head~~ administrator" means a principal administrative or policymaking position designated by a chief administrative officer and approved by the ~~department of personnel~~ director or as specified by law.

~~20. The superintendent of savings and loan associations and all employees of the savings and loan division of the department of commerce.~~

Sec. 7. Section 19A.3, unnumbered paragraph 2, Code 1999, is amended to read as follows:

The director ~~of the department of personnel~~ shall negotiate an agreement with the director of the department for the blind concerning the applicability of the merit system to the professional employees of the department for the blind.

Sec. 8. Section 19A.8, subsection 2, Code Supplement 1999, is amended to read as follows:

2. To establish and maintain a ~~roster~~ list of all employees in the executive branch of state government~~, excluding employees of the state board of regents,~~ in which there shall be set forth, as to each employee, the class title, pay, ~~or~~ status, and other pertinent data. For employees governed by chapter 262, the director shall work collaboratively with the state board of regents to collect such information.

Sec. 9. Section 19A.8, subsection 6, Code Supplement 1999, is amended to read as follows:

6. To investigate the operation and effect of this chapter and of the rules made under it and to report ~~semiannually~~ annually the director's findings and recommendations to the governor.

Sec. 10. Section 19A.8, Code Supplement 1999, is amended by adding the following new unnumbered paragraph following unnumbered paragraph 2:

NEW UNNUMBERED PARAGRAPH. The director may delegate any or all aspects of the recruitment, examination, and selection processes to an agency in the executive branch upon request by that agency. The director shall oversee all activities delegated to that agency.

Sec. 11. Section 19A.8, unnumbered paragraph 3, Code Supplement 1999, is amended to read as follows:

The director shall utilize appropriate persons, including officers and employees in the executive branch of state government, to assist in the ~~preparation and rating of tests~~ recruitment and examination of applicants for employment. ~~The director shall confer with agency~~

~~personnel to assist in preparing examinations for professional and technical classes. An appointing authority may excuse any employee under the appointing authority's jurisdiction from the employee's regular duties for the time required for work as an examiner.~~ These officers and employees are not entitled to extra pay for their services, ~~as examiners~~ but shall be paid their necessary traveling and other expenses.

Sec. 12. Section 19A.9, subsections 1, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, and 23, Code Supplement 1999, are amended to read as follows:

1. For the preparation, maintenance, and revision of a job classification plan that encompasses each job in the executive branch, excluding job classifications under the state board of regents, based upon assigned duties and responsibilities, so that the same general qualifications may reasonably be required for and the same pay plan may be equitably applied to all jobs in the same job classification. The director shall classify the position of every employee in the executive branch, excluding employees of the state board of regents, into one of the classes in the plan. An appointing authority or employee adversely affected by a ~~job~~ classification or reclassification decision may file an appeal with the director. Appeals of a classification or reclassification decision shall be exempt from the provisions of section 17A.11 and shall be heard by a committee appointed by the director. The classification or reclassification of a position that would cause the expenditure of additional salary funds shall not become effective if the expenditure of funds would be in excess of the total amount budgeted for the department of the appointing authority until budgetary approval has been obtained from the director of the department of management.

When the public interest requires a ~~diminution~~ decrease or increase of employees in any position or type of employment not otherwise provided by law, or the creation or abolishment of any position or type of employment, the director, acting in good faith, shall so notify the governor. Thereafter, the position or type of employment shall stand abolished or created and the number of employees therein reduced or increased.

3. For ~~open competitive~~ examinations to ~~test~~ determine the relative fitness of ~~new~~ applicants for ~~the respective positions~~ employment. Such examinations shall be practical in character and shall relate to such matters as will fairly ~~test~~ assess the ability of the applicant to discharge the duties of the position to which appointment is sought.

Where the Code of Iowa establishes certification, registration, ~~and~~ or licensing provisions, such documents shall be considered prima facie evidence of basic skills accomplishment and such persons shall be exempt from further basic skills ~~testing~~ examination.

~~Examinations need not be held until after the rules have been adopted, the service classified, and a pay plan established, but shall be held no later than one year after September 1, 1967. Such examinations~~ Vacancies shall be announced publicly at least fifteen days in advance of the date fixed for the filing of applications therefor, and shall be advertised through the communications media. The director may, however, in the director's discretion, continue to receive applications and examine candidates for a period adequate to assure a sufficient number of eligibles to meet the needs of the system, and may add the names of successful candidates to existing eligible lists ~~in accordance with their respective ratings~~.

4. For promotions which shall give appropriate consideration to the applicant's qualifications, record of performance, and conduct. ~~Vacancies shall be filled by promotion whenever practicable and in the best interest of the system and shall be by competitive or noncompetitive examination. Such examinations shall be of the same nature and content as those used in establishing competitive registers for the class.~~ A promotion means a change in the status of an employee~~,~~ from a position in one class to a position in another class having a higher ~~entrance salary~~ pay grade.

5. For the establishment of ~~eligible~~ lists for appointment and promotion, upon which lists shall be placed the names of successful candidates ~~in the order of their relative excellence in the respective examinations. Eligibility for appointment from any such list shall continue for at least one year and not longer than three years.~~

6. For the rejection of ~~candidates or eligibles~~ applicants who fail to ~~comply with~~ meet reasonable requirements ~~such as physical condition, training and experience, or who are habitual criminals or alcoholics who have not been rehabilitated from the use of alcohol for a period of six months, or addicted to narcotics, or who have attempted any deception or fraud in connection with an examination~~.

7. For the appointment by the appointing authority of a person ~~standing among the highest six scores~~ on the appropriate ~~eligible~~ list to fill a vacancy.

8. For a probation period of six months, excluding educational or training leave, before appointment may be made complete, and during which period a probationer may be discharged or reduced in class or ~~rank, or replaced on the eligible list~~ pay. ~~The appointing authority shall within ten days prior to the expiration of an employee's probation period notify the director in writing whether the services of the employee have been satisfactory or unsatisfactory.~~ If the employee's services are unsatisfactory, the employee shall be dropped from the payroll on or before the expiration of the probation period. If satisfactory, the appointment shall be deemed permanent. The determination of the appointing authority shall be final and conclusive.

9. For ~~emergency employment for not more than sixty calendar days in any twelve-month period without examination, and for intermittent~~ temporary employment for not more than ~~one~~ seven hundred ~~twenty calendar days~~ eighty hours in ~~any twelve-month period~~ a fiscal year. ~~For intermittent employment the employee must have had a probationary, permanent, or temporary appointment.~~

10. For provisional employment ~~without competitive examination~~ when there is no appropriate ~~eligible~~ list available. ~~No such~~ Such provisional employment shall not continue longer than one hundred eighty calendar days ~~nor shall successive provisional appointments be allowed, except during the first two years after September 1, 1967, in order to avoid stoppage of orderly conduct of the business of the state~~.

11. For transfer from a position in one department to a similar position in the same department or another department involving similar qualifications, duties, responsibilities, and salary ranges. Whenever an employee transfers or is transferred from one state department or agency to another state department or agency, the employee's seniority rights, any accumulated sick leave, and accumulated vacation time, as provided in the law, shall be transferred to the new place of employment and credited to the employee. Employees who are subject to contracts negotiated under chapter 20 which include transfer provisions shall be governed by the contract provisions.

12. For reinstatement of persons who have attained permanent status and who resign in good standing or who are laid off from their positions without fault or delinquency on their part~~, within a period equal to the period of their continuous employment with the state but for a period of not longer than two years~~.

13. For establishing in cooperation with the appointing authorities a performance management system ~~of service records of~~ for all employees in the executive branch of state government, excluding employees of the state board of regents, which ~~service records~~ shall be considered in determining salary increases ~~provided in the pay plan~~; as a factor in ~~promotion tests~~ promotions; as a factor in determining the order of layoffs ~~because of lack of funds or work~~ and in reinstatement; as a factor in demotions, discharges, ~~or~~ and transfers; and for the regular evaluation, at least annually, of the qualifications and performance of those employees.

14. For layoffs by reason of lack of funds or work, or ~~organization~~ reorganization, and for the recall of employees so laid off, giving ~~primary~~ consideration in layoffs to the employee's performance record and ~~secondary consideration to the~~ length of service. An employee who has been laid off may be on a recall list for one year, which list shall be exhausted by the ~~agency~~ organizational unit enforcing the layoff before selection of an employee may be made from the promotional or nonpromotional list ~~of eligibles~~ in the employee's classification. Employees who are subject to contracts negotiated under chapter 20 which include layoff and recall provisions shall be governed by the contract provisions.

~~23. For the establishment of work test appointments to job classifications such as laborers, attendants, aides, food service workers, laundry workers, custodial workers, or similar types of employment when the character of the work makes it impracticable to effectively supply the needs of the departments by written or other type of competitive examination. If this subsection conflicts with any other provisions of this chapter, the provisions of this subsection govern the positions to which it applies. All persons appointed to the positions specified in this subsection shall serve a probationary period in accordance with this chapter, may acquire permanent status, and are subject to the same rules as other employees. Such persons shall be required to pass promotional examinations as prescribed by this chapter and the rules adopted by the director before they may be promoted to a higher classification.~~

Sec. 13. NEW SECTION. 19A.12D IOWA STATE EMPLOYEE DEFERRED COMPENSATION MATCH TRUST FUND.

1. There is created in the office of the treasurer of state a special fund, separate and apart from all other public moneys or funds of this state, to be known as the Iowa state employee deferred compensation match trust fund, hereafter called the "fund". The fund shall consist of all moneys deposited in the fund, and other assets that must be held in trust for the exclusive benefit of participants in the state's deferred compensation match program as required by section 401(a) of the federal Internal Revenue Code, and interest and earnings thereon, and shall be used for the exclusive benefit of participants and their beneficiaries in a deferred compensation match program established by the state under section 509A.12.

2. The director is the trustee of the fund and shall administer the fund. Any loss to the fund shall be charged against the trust and the director shall not be personally liable for such loss.

3. Moneys in the fund are not subject to section 8.33. Notwithstanding section 12C.7, subsection 2, interest or earnings on moneys in the fund shall be credited to the fund.

Sec. 14. NEW SECTION. 19A.12E STATE EMPLOYEE DEPENDENT CARE SPENDING ACCOUNT TRUST FUND.

1. There is created in the state treasury a special trust fund known as the Iowa state employee dependent care spending account trust fund. The trust fund consists of all moneys, including monthly administrative charges paid by a state department or agency as authorized by section 19A.8, held in trust for the exclusive benefit of participants in the state's dependent care spending account plan. Moneys in the fund are not subject to section 8.33. Notwithstanding section 12C.7, interest and earnings from moneys in the trust fund shall be credited to the trust fund and shall be used exclusively for the benefit of plan participants.

2. The director shall serve as trustee of the trust fund and shall administer the fund as required by sections 125 and 129 of the federal Internal Revenue Code. Any loss to the fund shall be charged against the fund and the director shall not be personally liable for such loss. The director has the authority to direct expenditures as deemed appropriate to the exclusive benefit of the plan participants.

Sec. 15. Section 19A.13, unnumbered paragraphs 1 and 2, Code 1999, are amended to read as follows:

A state disbursing or auditing officer shall not make or approve or take part in making or approving a payment for ~~personal service~~ personnel services to any person unless the payroll voucher or account of the pay bears the certification of the director, or of the director's authorized agent, that the persons named have been appointed and employed in accordance with this chapter and the rules and orders under it, and that funds are available for the payment of the persons.

The director may, for proper cause, withhold certification from an entire payroll or from any specific item or items thereon. The director may, however, provide that certification of payrolls may be made once every ~~six months~~ year, and such certification shall remain in

effect except in the case of any officer or employee whose status has changed after the last certification of the officer's or employee's payroll. In the latter case no voucher for payment of salary to such employee shall be issued or payment of salary made without further certification by the director.

Sec. 16. Section 19A.15, unnumbered paragraph 2, Code 1999, is amended to read as follows:

Any applicant for a position subject to the provisions of this chapter shall be permitted to review, in accordance with such rules as the director may prescribe, any ~~test, grade, or~~ evaluation resulting from the application for employment.

Sec. 17. Section 19A.16, Code 1999, is amended to read as follows:

19A.16 SERVICES TO POLITICAL SUBDIVISIONS.

The director may enter into agreements with any municipality or political subdivision of the state to furnish services and facilities of the agency to the municipality or political subdivision. The agreement shall provide for the reimbursement to the ~~state~~ department of the reasonable cost of the services and facilities furnished. All municipalities and political subdivisions of the state are authorized to enter into such agreements.

Nothing in this chapter shall affect any municipal civil service programs presently established under and pursuant to chapter 400.

Sec. 18. Section 19A.19, unnumbered paragraph 1, Code 1999, is amended to read as follows:

~~No~~ A person shall not make any false statement, certificate, mark, rating, or report with regard to any ~~test, certification,~~ examination or appointment made under ~~any provision of~~ this chapter or in any manner commit or attempt to commit any fraud preventing the impartial execution of this chapter and the rules ~~hereunder~~ adopted pursuant to this chapter.

Sec. 19. Section 19A.19, unnumbered paragraph 3, Code 1999, is amended to read as follows:

~~No~~ An employee of the department~~, examiner,~~ or any other person shall not defeat, deceive, or obstruct any person in the person's right to examination~~, eligibility certification,~~ or appointment under this chapter, or furnish to any person any special or secret information for the purpose of affecting the rights or prospects of any person with respect to employment in the merit system.

Sec. 20. Section 19A.35, subsection 2, Code Supplement 1999, is amended to read as follows:

2. There is created in the state treasury a special trust fund known as the Iowa state employee health flexible spending account trust fund. The trust fund consists of all moneys appropriated to the fund, all monthly administrative charges paid by a state department or agency as authorized by section 19A.8, and any other assets directed to be held in trust for the exclusive benefit of participants in the state's health flexible spending account plan. Notwithstanding section 12C.7, interest and earnings from moneys in the trust fund shall be credited to the trust fund and shall be used exclusively for the benefit of plan participants.

Sec. 21. Section 70A.16, subsection 1, Code 1999, is amended to read as follows:

1. If approved by the appointing authority, a person who interviews for employment by the state shall be reimbursed for expenses incurred in the interview ~~at the same rate at which a state employee is reimbursed for expenses incurred during the performance of state business~~.

Sec. 22. Section 70A.25, subsection 1, paragraph a, Code 1999, is amended to read as follows:

a. "Educational assistance" means reimbursement for tuition, fees, books or other expenses incurred by a state employee in taking coursework at an educational institution or attending a workshop, seminar, or conference without a reduction in ordinary job responsi-

bilities and that the appointing authority determines contributes to the growth and development of the employee in the employee's present position or in a position to which the employee may reasonably be assigned.

Sec. 23. Section 70A.25, subsection 1, paragraph c, Code 1999, is amended to read as follows:

c. "Educational leave and educational assistance" do not apply to job training, ~~and~~ employee development programs, ~~and~~ or departmental seminars that are conducted or sponsored by a state agency ~~for the exclusive benefit of employees of that state agency~~.

Sec. 24. Section 70A.25, subsection 2, unnumbered paragraph 1, Code 1999, is amended to read as follows:

The purpose of educational leave with full or partial pay and educational assistance is to assist state employees to develop skills that will improve their ability to perform ~~their present~~ state job responsibilities or in the case of educational leave to also provide training and educational opportunities for employees of a state agency that will enable the agency director to better meet the staffing needs of the state agency.

Sec. 25. Section 70A.31, Code 1999, is amended to read as follows:

70A.31 ELIGIBILITY.

The phased retirement incentive program requires that participants agree to work a maximum of thirty-two hours per week and a minimum of twenty hours per week for the first four years after entering the program. After the fourth year of participation in the program, participants shall agree to work a maximum of twenty hours per week. Participants shall agree to retire from state government employment effective ~~on~~ no later than the last day of their fifth year of participation in the program.

Sec. 26. IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM — EMPLOYEE WAGES.

1. Notwithstanding section 97B.1A, subsection 26, paragraph "a", subparagraph (2), subparagraph subdivision (d), as enacted in 2000 Iowa Acts, Senate File 2411,[1] "wages" as defined in section 97B.1A, subsection 26, for an eligible employee of an eligible employer shall include allowable employer-paid contributions which are uniformly applied by each eligible employer to all of the employer's eligible employees and are not limited to highly compensated employees as defined in section 414(q) of the Internal Revenue Code.

2. For purposes of this section:

a. "Allowable employer-paid contributions" means employer-paid contributions that cannot be received by the employee in cash and that are made to plans, programs, or arrangements qualified under section 125 of the Internal Revenue Code.

b. "Eligible employee" means an employee of an eligible employer who is covered under chapter 97B and was employed by the eligible employer prior to July 1, 2000.

c. "Eligible employer" means an employer covered by chapter 97B who meets all of the following requirements:

(1) The employer included allowable employer-paid contributions in employees' wages continuously from January 1, 1997, through January 1, 2000.

(2) The employer includes allowable employer-paid contributions in employees' wages for all eligible employees of the employer on and after July 1, 2000.

3. An eligible employer may file a written election with the department of personnel to exclude allowable employer-paid contributions from wages of every eligible employee of the employer and shall cease being an eligible employer for purposes of this section upon filing the election. An election by an eligible employer to exclude allowable employer-paid contributions is irrevocable and no retroactive wage adjustment shall be permitted for eligible employees following the election. An eligible employee shall not be permitted to file a written election to exclude allowable employer-paid contributions from that eligible employee's wages.

[1] Chapter 1077, §20 herein

Sec. 27. EFFECTIVE DATE — RETROACTIVE APPLICABILITY.

1. The amendment to section 19A.9, subsection 12, in section 12 of this Act, being deemed of immediate importance, takes effect upon enactment and is retroactively applicable to January 1, 2000, and is applicable on and after that date.

2. Section 14 of this Act, creating new section 19A.12E, being deemed of immediate importance, takes effect upon enactment and is retroactively applicable to January 1, 2000, and is applicable on and after that date.

Approved May 8, 2000

CHAPTER 1172

TRADITIONAL LIVESTOCK PRODUCERS — LINKED INVESTMENT LOANS

S.F. 2010

AN ACT relating to the traditional livestock producers linked investment loan program by modifying eligibility requirements, and providing for a temporary preference in executing agreements.

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

Section 1. DIRECTIONS TO TREASURER OF STATE — PSEUDORABIES. When entering into agreements with eligible lending institutions to receive traditional livestock producers linked investment loans as provided in section 12.43A, the treasurer of state shall provide a preference in entering into agreements in order to increase the availability of lower cost loans to traditional livestock producers who have liquidated swine herds on or after March 1, 2000, including by depopulation, due to the infection of pseudorabies.

Sec. 2. Section 12.43A, subsection 1, paragraph d, Code Supplement 1999, is amended to read as follows:

d. "Traditional livestock producer" means a person who is the owner and operator of livestock subject to care and feeding at a livestock operation in which the person holds a legal interest. The person may own the livestock or own the livestock jointly with another person. ~~As the owner operator, the~~ The person must ~~make daily~~ be actively engaged in the livestock operation by making management decisions and ~~perform~~ performing physical work ~~which significantly contributes to~~ relating to the care and feeding of the livestock on a regular, continuous, and substantial basis in a manner that is essential to the success of the livestock operation.

Sec. 3. Section 12.43A, subsection 3, paragraphs c and d, Code Supplement 1999, are amended to read as follows:

c. The gross income earned by the borrower's farm operation must be more than fifty thousand dollars but not more than ~~three~~ five hundred thousand dollars for the borrower's last tax year.

d. At least fifty percent of the average annual gross income earned by the borrower's farm operation ~~during the last tax year must derive~~ derives from livestock owned and sold by the borrower. The average annual gross income shall be computed as the average of the gross income earned by the farm operation in the three preceding tax years.

Sec. 4. REPEAL. Section 1 of this Act is repealed on July 1, 2001.

Approved May 9, 2000

CHAPTER 1173

CRIMINAL SENTENCING — EARNED TIME CREDITS

S.F. 2276

AN ACT relating to the application of earned time credits against a criminal sentence and providing an effective date.

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

Section 1. Section 610A.3, subsection 1, paragraphs a and b, Code 1999, are amended to read as follows:

a. The loss of some or all of the ~~good conduct~~ earned time credits acquired by the inmate or prisoner. Previous dismissals under section 610A.2 may be considered in determining the appropriate level of penalty.

b. If the inmate or prisoner has no ~~good conduct~~ earned time credits to deduct, the order of the court or the disciplinary hearing may deduct up to fifty percent of the average balance of the inmate account under section 904.702 or of any prisoner account.

Sec. 2. Section 901.5, subsection 9, paragraph a, Code 1999, is amended to read as follows:

a. That the defendant's term of incarceration may be reduced ~~by as much as half of~~ from the maximum sentence because of statutory ~~good conduct~~ earned time, work credits, and program credits.

Sec. 3. Section 901.5A, subsection 3, Code Supplement 1999, is amended to read as follows:

3. For purposes of calculating ~~good conduct~~ earned time under section 903A.2, the sentencing date for a defendant whose sentence has been reopened under this section shall be the date of the original sentencing order.

Sec. 4. Section 903A.2, Code 1999, is amended to read as follows:

903A.2 ~~GOOD CONDUCT TIME~~ EARNED TIME.

1. Each inmate committed to the custody of the director of the department of corrections is eligible ~~for~~ to earn a reduction of sentence ~~for good behavior~~ in the manner provided in this section. For purposes of calculating the amount of time by which an inmate's sentence may be reduced, inmates shall be grouped into the following two sentencing categories:

a. Category "A" sentences are those sentences which are not subject to a maximum accumulation of ~~good conduct~~ earned time of fifteen percent of the total sentence of confinement under section 902.12. To the extent provided in subsection 5, category "A" sentences also include life sentences imposed under section 902.1. An inmate of an institution under the control of the department of corrections who is serving a category "A" sentence is eligible for a reduction of sentence ~~equal to one day for each day of good conduct while committed to one of the department's institutions. In addition, each inmate who is serving a category "A" sentence is eligible for an additional reduction of up to five days per month if the inmate participates satisfactorily in any of the following activities~~ equal to one and two-tenths days for each day the inmate demonstrates good conduct and satisfactorily participates in any program or placement status identified by the director to earn the reduction. The programs include but are not limited to the following:

(1) Employment in the institution.

(2) Iowa state industries.

(3) An employment program established by the director.

(4) A treatment program established by the director.

(5) An inmate educational program approved by the director.

b. Category "B" sentences are those sentences which are subject to a maximum accumulation of ~~good conduct~~ earned time of fifteen percent of the total sentence of confinement

under section 902.12. An inmate of an institution under the control of the department of corrections who is serving a category "B" sentence is eligible for a reduction of sentence equal to fifteen eighty-fifths of a day for each day of good conduct by the inmate.

2. ~~Good conduct~~ Earned time ~~earned~~ accrued pursuant to this section may be forfeited in the manner prescribed in section 903A.3.

3. Time served in a jail or another facility prior to actual placement in an institution under the control of the department of corrections and credited against the sentence by the court shall accrue for the purpose of reduction of sentence under this section. Time which elapses during an escape shall not accrue for purposes of reduction of sentence under this section.

4. Time which elapses between the date on which a person is incarcerated, based upon a determination of the board of parole that a violation of parole has occurred, and the date on which the violation of parole was committed shall not accrue for purposes of reduction of sentence under this section.

5. ~~Good conduct~~ Earned time accrued by inmates serving life sentences imposed under section 902.1 shall not reduce the life sentence, but shall be credited against the inmate's sentence if the life sentence is commuted to a term of years under section 902.2.

Sec. 5. Section 903A.3, subsections 1 and 3, Code 1999, are amended to read as follows:

1. Upon finding that an inmate has violated an institutional rule, or has had an action or appeal dismissed under section 610A.2, the independent administrative law judge may order forfeiture of any or all ~~good conduct~~ earned time ~~earned~~ accrued and not forfeited up to the date of the violation by the inmate and may order forfeiture of any or all ~~good conduct~~ earned time ~~earned~~ accrued and not forfeited up to the date the action or appeal is dismissed, unless the court entered such an order under section 610A.3. The independent administrative law judge has discretion within the guidelines established pursuant to section 903A.4, to determine the amount of time that should be forfeited based upon the severity of the violation. Prior violations by the inmate may be considered by the administrative law judge in the decision.

3. The director of the Iowa department of corrections or the director's designee, may restore all or any portion of previously forfeited ~~good conduct~~ earned time for acts of heroism or for meritorious actions. The director shall establish by rule the requirements as to which activities may warrant the restoration of ~~good conduct~~ earned time and the amount of ~~good conduct~~ earned time to be restored.

Sec. 6. Section 903A.4, Code 1999, is amended to read as follows:

903A.4 POLICIES AND PROCEDURES.

The director of the Iowa department of corrections shall develop policy and procedural rules to implement sections 903A.1 through 903A.3. The rules may specify disciplinary offenses which may result in the loss of ~~good conduct~~ earned time, and the amount of ~~good conduct~~ earned time which may be lost as a result of each disciplinary offense. The director shall establish rules as to what constitutes "satisfactory participation" for purposes of ~~additional~~ a reduction of ~~sentence under section 903A.3, for employment in the institution, in Iowa state industries, in an inmate employment program established by the director, or for participation in an educational program approved by the director, when such employment or programs are available~~ sentence under section 903A.2, for programs that are available or unavailable. The rules shall specify that earned time shall be calculated on a monthly basis as it accrues. The department shall generate an earned time report for each inmate which shall include the amount of actual time served, the number of earned time credits which have not been lost or forfeited, and the amount of time remaining on an inmate's sentence.

Sec. 7. Section 903A.5, unnumbered paragraph 1, Code Supplement 1999, is amended to read as follows:

An inmate shall not be discharged from the custody of the director of the Iowa department of corrections until the inmate has served the full term for which the inmate was sentenced, less ~~good conduct~~ earned time and other credits earned and not forfeited, unless the inmate is pardoned or otherwise legally released. ~~Good conduct~~ Earned time ~~earned~~ accrued and not forfeited shall apply to reduce a mandatory minimum sentence being served pursuant to section 124.406, 124.413, 902.7, 902.8, 902.8A, or 902.11. An inmate shall be deemed to be serving the sentence from the day on which the inmate is received into the institution. If an inmate was confined to a county jail or other correctional or mental facility at any time prior to sentencing, or after sentencing but prior to the case having been decided on appeal, because of failure to furnish bail or because of being charged with a nonbailable offense, the inmate shall be given credit for the days already served upon the term of the sentence. However, if a person commits any offense while confined in a county jail or other correctional or mental health facility, the person shall not be granted jail credit for that offense. Unless the inmate was confined in a correctional facility, the sheriff of the county in which the inmate was confined shall certify to the clerk of the district court from which the inmate was sentenced and to the department of corrections' records administrator at the Iowa medical and classification center the number of days so served. The department of corrections' records administrator, or the administrator's designee, shall apply jail credit as ordered by the court of proper jurisdiction or as authorized by this section and section 907.3, subsection 3, and shall forward a copy of the number of days served to the clerk of the district court from which the inmate was sentenced.

Sec. 8. Section 903A.7, Code 1999, is amended to read as follows:

903A.7 SEPARATE SENTENCES.

Consecutive multiple sentences that are within the same category under section 903A.2 shall be construed as one continuous sentence for purposes of calculating reductions of sentence for ~~good conduct~~ earned time. If a person is sentenced to serve sentences of both categories, category "B" sentences shall be served before category "A" sentences are served, and ~~good conduct~~ earned time ~~earned~~ accrued against the category "B" sentences shall not be used to reduce the category "A" sentences. If an inmate serving a category "A" sentence is sentenced to serve a category "B" sentence, the category "A" sentence shall be interrupted, and no further ~~good conduct~~ earned time shall accrue against that sentence until the category "B" sentence is completed.

Sec. 9. CONVERSION OF GOOD CONDUCT TIME. On the effective date of this Act, the department shall convert the existing accrued good conduct time and other accrued reductions on each inmate's sentence to earned time. An inmate's sentence shall be credited with one day of earned time for every one day of reduction credited under section 903A.2 and not lost or forfeited under section 903A.3. The earned time credited to an inmate's sentence shall equal the amount of good conduct time or other reductions credited which have not been lost or forfeited prior to January 1, 2001. The department shall provide an inmate with the number of earned time credits which have been applied to the inmate's sentence as a result of the conversion by February 1, 2001.

Sec. 10. EFFECTIVE DATE. This Act takes effect on January 1, 2001.

Approved May 9, 2000

CHAPTER 1174

FINANCING OF PUBLIC IMPROVEMENTS

S.F. 2447

AN ACT relating to public improvements and providing financial assistance to communities and school districts by creating a school infrastructure program and fund, continuing the community attraction and tourism program and fund, creating a vision Iowa board, creating a vision Iowa program and fund, providing bonding authority to the treasurer of state, and exempting certain income from taxation.

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

DIVISION I
SUBCHAPTER I
VISION IOWA BOARD

Section 1. NEW SECTION. 15F.101 DEFINITIONS.

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

1. "Board" means the vision Iowa board as created in section 15F.102.

2. "Department" means the Iowa department of economic development created in section 15.105.

Sec. 2. NEW SECTION. 15F.102 VISION IOWA BOARD.

1. The vision Iowa board is established consisting of thirteen members and is located for administrative purposes within the department. The director of the department shall provide office space, staff assistance, and necessary supplies and equipment for the board. The director shall budget funds to pay the compensation and expenses of the board. In performing its functions the board is performing a public function on behalf of the state and is a public instrumentality of the state.

2. The membership of the board shall be appointed as follows:

a. Three members of the general public, one member from each of the three tourism regions.

b. One mayor of a city with a population of less than twenty thousand.

c. One county supervisor from a county that has a population ranking in the bottom thirty-three counties according to the 1990 census.

d. Four members of the general public.

e. One mayor of a city with a population of twenty thousand or more.

f. The director of the department of economic development.

g. The treasurer of state or the treasurer of state's designee.

h. The auditor of state or the auditor of state's designee.

3. All appointments, except the director of the department of economic development, the treasurer of state, and the auditor of state, shall be made by the governor, shall comply with sections 69.16 and 69.16A, and shall be subject to confirmation by the senate. All appointed members of the board shall have demonstrable experience or expertise in the field of tourism development and promotion, public financing, architecture, engineering, or major facility development or construction.

4. All members of the board, except the director of the department of economic development, the treasurer of state, and the auditor of state, shall be residents of different counties.

5. The chairperson and vice chairperson of the board shall be designated by the governor from the board members listed in subsection 2, paragraphs "a" through "e". In case of the absence or disability of the chairperson and vice chairperson, the members of the board shall elect a temporary chairperson by a majority vote of those members who are present and voting.

6. The members, except the director of the department of economic development, the treasurer of state, and the auditor of state, shall be appointed to three-year staggered terms and

the terms shall commence and end as provided by section 69.19. If a vacancy occurs, a successor shall be appointed to serve the unexpired term. A successor shall be appointed in the same manner and subject to the same qualifications as the original appointment to serve the unexpired term.

7. A majority of the board constitutes a quorum.

Sec. 3. NEW SECTION. 15F.103 BOARD DUTIES.

The board shall do all of the following:

1. Organize.
2. Establish the vision Iowa program and the community attraction and tourism program.
3. Oversee and provide approval of the administration of the vision Iowa program and the community attraction and tourism program by the department.
4. Request the treasurer of state to issue bonds on behalf of the board for purposes of the vision Iowa program.

Sec. 4. NEW SECTION. 15F.103A DEPARTMENT DUTIES.

The department, subject to approval by the board, shall adopt administrative rules pursuant to chapter 17A necessary to administer the community attraction and tourism program and the vision Iowa program. The department shall provide the board with assistance in implementing administrative functions, marketing the programs, providing technical assistance and application assistance to applicants under the programs, negotiating contracts, and providing project follow-up. The department, in cooperation with the treasurer of state, may conduct negotiations on behalf of the board with applicants regarding terms and conditions applicable to awards under the programs.

Sec. 5. NEW SECTION. 15F.104 COMPENSATION AND EXPENSES.

The members of the board are entitled to receive reimbursement for actual expenses incurred while engaged in the performance of official duties. A member of the board may also be eligible to receive compensation as provided in section 7E.6.

Sec. 6. NEW SECTION. 15F.105 BENEFITS.

Any applicant awarded financial assistance by the board under both the vision Iowa program established in section 15F.302 and the community attraction and tourism program established in section 15F.202 shall provide and pay at least fifty percent of the cost of a standard medical insurance plan for all full-time employees working at the project after the completion of the project for which financial assistance was received.

SUBCHAPTER II
COMMUNITY ATTRACTION AND TOURISM
PROGRAM AND FUND

Sec. 7. NEW SECTION. 15F.201 DEFINITIONS.

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

1. "Fund" means the community attraction and tourism fund created in section 15F.204.
2. "Program" means the community attraction and tourism program established in section 15F.202.

Sec. 8. NEW SECTION. 15F.202 COMMUNITY ATTRACTION AND TOURISM PROGRAM.

1. The board shall establish and the department, subject to direction and approval by the board, shall administer a community attraction and tourism program to assist communities in the development and creation of multiple-purpose attraction or tourism facilities.

2. A city or county in the state or public organization may submit an application to the board for financial assistance for a project under the program. The assistance shall be in the form of grants, loans, forgivable loans, and loan guarantees. The application shall include, but not be limited to, the following information:

a. The total capital investment of the project, including but not limited to costs for construction, site acquisition, and infrastructure improvement.

b. The amount or percentage of local and private matching moneys which will be or have been provided for the project.

c. The total number of jobs to be created or retained by the project.

d. The need of the community for the project and for the financial assistance.

e. The long-term tax-generating impact of the project.

3. A school district, in cooperation with a city or county, may submit a joint application for financial assistance for a project under the program. The assistance shall be in the form of grants, loans, forgivable loans, and loan guarantees. In addition to the information required in subsection 2, the application shall include a demonstration that the intended future use of the project shall be by both joint applicants.

Sec. 9. NEW SECTION. 15F.203 COMMUNITY ATTRACTION AND TOURISM PROGRAM APPLICATION REVIEW.

1. Applications for assistance under the program shall be submitted to the department. For those applications that meet the eligibility criteria, the department shall provide a staff review analysis and evaluation to the community attraction and tourism program review committee referred to in subsection 2 and the board.

2. A review committee composed of five members of the board shall review community attraction and tourism program applications submitted to the board and make recommendations regarding the applications to the board. The review committee shall consist of members of the board listed in section 15F.102, subsection 2, paragraphs "a" through "c".

3. When reviewing the applications, the review committee and the department shall consider, at a minimum, all of the following:

a. Whether the wages, benefits, including health benefits, safety, and other attributes of the project would improve the quality of life or the quality of attraction or tourism employment in the community.

b. The extent to which such a project would generate additional recreational and cultural attractions or tourism opportunities.

c. The ability of the project to produce a long-term tax-generating economic impact.

d. The location of the projects and geographic diversity of the applications.

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. "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.

f. Whether the applicant has received financial assistance under the program for the same project.

g. The extent to which the project has taken the following planning principles into consideration:

(1) Efficient and effective use of land resources and existing infrastructure by encouraging development in areas with existing infrastructure or capacity to avoid costly duplication of services and costly use of land.

(2) Provision for a variety of transportation choices, including pedestrian traffic.

(3) Maintenance of a unique sense of place by respecting local cultural and natural environmental features.

(4) Conservation of open space and farmland and preservation of critical environmental areas.

(5) Promotion of the safety, livability, and revitalization of existing urban and rural communities.

4. Upon review of the recommendations of the review committee, the board shall approve, defer, or deny the applications.

5. Upon approval of an application for financial assistance under the program, the board shall notify the treasurer of state regarding the amount of moneys needed to satisfy the award of financial assistance and the terms of the award. The treasurer of state shall notify the department anytime moneys are disbursed to a recipient of financial assistance under the program.

Sec. 10. NEW SECTION. 15F.204 COMMUNITY ATTRACTION AND TOURISM FUND.

1. A community attraction and tourism fund is created as a separate fund in the state treasury under the control of the board, consisting of any moneys appropriated by the general assembly and any other moneys available to and obtained or accepted by the board for placement in the fund.

2. Payments of interest, repayments of moneys loaned pursuant to this subchapter, and recaptures of grants or loans shall be deposited in the fund.

3. The fund shall be used to provide grants, loans, forgivable loans, and loan guarantees under the community attraction and tourism program established in section 15F.202. An applicant under the community attraction and tourism program shall not receive financial assistance from the fund in an amount exceeding fifty percent of the total cost of the project.

4. Moneys in the fund are not subject to section 8.33. Notwithstanding section 12C.7, subsection 2, interest or earnings on moneys in the fund shall be credited to the fund.

5. At the beginning of each fiscal year, the board shall allocate all moneys in the fund in the following manner:

a. One-third of the moneys shall be allocated to provide assistance to cities and counties which meet the following criteria:

(1) A city which has a population of ten thousand or less according to the most recently published census.

(2) A county which has a population that ranks in the bottom thirty-three counties according to the most recently published census.

b. Two-thirds of the moneys shall be allocated to provide assistance to any city and county in the state, which may include a city or county included under paragraph "a".

6. If two or more cities or counties submit a joint project application for financial assistance under the program, all joint applicants must meet the criteria of subsection 5, paragraph "a", in order to receive any moneys allocated under that paragraph.

7. If any portion of the allocated moneys under subsection 5, paragraph "a", has not been awarded by April 1 of the fiscal year for which the allocation is made, the portion which has not been awarded may be utilized by the board to provide financial assistance under the program to any city or county in the state.

SUBCHAPTER III
VISION IOWA PROGRAM

Sec. 11. NEW SECTION. 15F.301 DEFINITIONS.

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

1. "Fund" means the vision Iowa fund created in section 12.72.

2. "Program" means the vision Iowa program established in section 15F.302.

Sec. 12. NEW SECTION. 15F.302 VISION IOWA PROGRAM.

1. The board shall establish and the department, subject to direction and approval by the board, shall administer a vision Iowa program to assist communities in the development of major tourism facilities.

2. A city or county or a public organization in the state may submit an application to the board for financial assistance for a project under the program. For purposes of this subsection, "public organization" means a nonprofit economic development organization or other

nonprofit organization that sponsors or supports community or tourism attractions and activities. The financial assistance from the fund shall be in the form of grants, loans, forgivable loans, pledges, and guarantees. The application shall include, but not be limited to, the following information:

a. The total capital investment of the project, including but not limited to costs for construction, site acquisition, and infrastructure improvement.

b. A description of the proposed financing including the amount or percentage of local and private matching moneys to be provided for the project.

c. The total number of jobs to be created or retained by the project.

d. The need of the community for the project and for financial assistance.

e. The long-term tax-generating impact of the project.

f. A discussion of how the project meets other criteria established in this subchapter.

g. The projected long-term economic viability of the project, including projected revenues and expenses.

3. A school district, in cooperation with a city or county, may submit a joint application for financial assistance for a project under the program. The financial assistance shall be in the form of grants, loans, forgivable loans, and loan guarantees. In addition to the information required in subsection 2, the application shall include a demonstration that the intended future use of the project shall be by both joint applicants.

Sec. 13. NEW SECTION. 15F.303 ELIGIBILITY.

1. The total cost for a project must be at least twenty million dollars in order for an applicant to receive financial assistance under the program. An applicant or the board may divide a proposed project into component parts. The board may choose to provide financial assistance under the program to one or more component parts instead of providing financial assistance under the program for the entire project.

2. An applicant must demonstrate financial and nonfinancial support for the project which may be from a public or private source. Nonfinancial support may include, but is not limited to, the value of labor and services, real and personal property donated for purposes of the project, and the use of real and personal property for purposes of the project. The financial and nonfinancial support for the project described under this subsection shall equal at least fifty percent of the total cost of the project.

3. In order for a project to be eligible to receive financial assistance, the project must satisfy all of the following criteria:

a. 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. "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.

b. The project supports or is strategically aligned with other existing regional or statewide cultural, recreational, entertainment, or educational activities.

c. The project provides benefits to persons living outside the county in which the project is located or to persons living outside the state.

d. The project will increase the diversity of activities available to citizens, workers, families, and tourists, and enhance recruitment and retention of young people as residents.

e. The project has economic or other obstacles impeding local financing of the project.

4. The board shall not approve an application for assistance for any of the following purposes:

a. To refinance a loan existing prior to the initial application date.

b. For a project that has previously received assistance under the program, unless the applicant demonstrates that the assistance would be used for a significant expansion of a project.

Sec. 14. NEW SECTION. 15F.304 VISION IOWA PROGRAM APPLICATION REVIEW.

1. Applications for assistance under the program shall be submitted to the department. For those applications that meet the eligibility criteria, the department shall provide a staff review and evaluation to the vision Iowa program review committee referred to in subsection 2 and the board.

2. A review committee composed of eight members of the board shall review vision Iowa program applications submitted to the board and make recommendations regarding the applications to the board. The review committee shall consist of members of the board listed in section 15F.102, subsection 2, paragraphs "d" through "h".

3. When reviewing the applications, the review committee and the department shall consider, in addition to other criteria established in this subchapter, all of the following:

a. Whether wages, benefits, including health benefits, safety, and other attributes of the project would improve the quality of other existing regional or statewide cultural, recreational, entertainment, and educational activities or employment in the community.

b. The extent to which the project would generate additional attraction and tourism opportunities.

c. The ability of the project to produce a long-term tax-generating economic impact in excess of the proposed financial assistance from the vision Iowa fund.

d. The geographic diversity of the project in combination with other proposed projects.

e. The investment of the city, county, or region in the overall project.

f. Other funding mechanisms.

g. The long-term economic viability of the project.

h. The extent to which the project has taken the following planning principles into consideration:

(1) Efficient and effective use of land resources and existing infrastructure by encouraging development in areas with existing infrastructure or capacity to avoid costly duplication of services and costly use of land.

(2) Provision for a variety of transportation choices, including pedestrian traffic.

(3) Maintenance of a unique sense of place by respecting local cultural and natural environmental features.

(4) Conservation of open space and farmland and preserve[1] critical environmental areas.

(5) Promotion of the safety, livability, and revitalization of existing urban and rural communities.

4. Upon review of the recommendations of the review committee, the board shall approve, defer, or deny the applications.

DIVISION II

Sec. 15. NEW SECTION. 12.71 GENERAL AND SPECIFIC BONDING POWERS — VISION IOWA PROGRAM.

1. The treasurer of state may issue bonds upon the request of the vision Iowa board created in section 15F.102 and do all things necessary with respect to the purposes of the vision Iowa fund. The treasurer of state shall have all of the powers which are necessary to issue and secure bonds and carry out the purposes of the fund. The treasurer of state may issue bonds in principal amounts which, in the opinion of the board, are necessary to provide sufficient funds for the vision Iowa fund created in section 12.72, the payment of interest on the bonds, the establishment of reserves to secure the bonds, the costs of issuance of the bonds, other expenditures of the treasurer of state incident to and necessary or convenient to carry out the bond issue for the fund, and all other expenditures of the board necessary or convenient to administer the fund; provided, however, excluding the issuance of refunding bonds, bonds issued pursuant to section 12.71 shall not be issued in an aggregate principal amount which exceeds three hundred million dollars. The bonds are investment securities and negotiable instruments within the meaning of and for purposes of the uniform commercial code.

[1] See chapter 1232, §44 herein

2. Bonds issued under this section are payable solely and only out of the moneys, assets, or revenues of the vision Iowa fund and any bond reserve funds established pursuant to section 12.72, all of which may be deposited with trustees or depositories in accordance with bond or security documents and pledged by the board to the payment thereof. Bonds issued under this section shall contain on their face a statement that the bonds do not constitute an indebtedness of the state. The treasurer of state shall not pledge the credit or taxing power of this state or any political subdivision of this state or make bonds issued pursuant to this section payable out of any moneys except those in the vision Iowa fund.

3. The proceeds of bonds issued by the treasurer of state and not required for immediate disbursement may be deposited with a trustee or depository as provided in the bond documents and invested or reinvested in any investment as directed by the board and specified in the trust indenture, resolution, or other instrument pursuant to which the bonds are issued without regard to any limitation otherwise provided by law.

4. The bonds shall be:

a. In a form, issued in denominations, executed in a manner, and payable over terms and with rights of redemption, and be subject to such other terms and conditions as prescribed in the trust indenture, resolution, or other instrument authorizing their issuance.

b. Negotiable instruments under the laws of the state and may be sold at prices, at public or private sale, and in a manner, as prescribed by the treasurer of state. Chapters 73A, 74, 74A, and 75 do not apply to the sale or issuance of the bonds.

c. Subject to the terms, conditions, and covenants providing for the payment of the principal, redemption premiums, if any, interest, and other terms, conditions, covenants, and protective provisions safeguarding payment, not inconsistent with this section and as determined by the trust indenture, resolution, or other instrument authorizing their issuance.

5. The bonds are securities in which public officers and bodies of this state; political subdivisions of this state; insurance companies and associations and other persons carrying on an insurance business; banks, trust companies, savings associations, savings and loan associations, and investment companies; administrators, guardians, executors, trustees, and other fiduciaries; and other persons authorized to invest in bonds or other obligations of the state, may properly and legally invest funds, including capital, in their control or belonging to them.

6. Bonds must be authorized by a trust indenture, resolution, or other instrument of the treasurer of state approved by the board. However, a trust indenture, resolution, or other instrument authorizing the issuance of bonds may delegate to an officer of the board the power to negotiate and fix the details of an issue of bonds.

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

8. Bonds issued under the provisions of this section are declared to be issued for a general public and governmental purpose and all bonds issued under this section shall be exempt from taxation by the state of Iowa and the interest on the bonds shall be exempt from the state income tax and the state inheritance and estate tax.

9. Subject to the terms of any bond documents, moneys in the vision Iowa fund may be expended for administration expenses.

10. The treasurer of state may issue bonds for the purpose of refunding any bonds or notes issued pursuant to this section then outstanding, including the payment of any redemption premiums thereon and any interest accrued or to accrue to the date of redemption of the outstanding bonds or notes. Until the proceeds of bonds issued for the purpose of refunding outstanding bonds or notes are applied to the purchase or retirement of outstanding bonds or notes or the redemption of outstanding bonds or notes, the proceeds may be placed in escrow and be invested and reinvested in accordance with the provisions of this section. The interest, income, and profits earned or realized on an investment may also be applied to the payment of the outstanding bonds or notes to be refunded by purchase, retirement, or

redemption. After the terms of the escrow have been fully satisfied and carried out, any balance of proceeds and interest earned or realized on the investments may be returned to the board for deposit in the vision Iowa fund established in section 12.72. All refunding bonds shall be issued and secured and subject to the provisions of this chapter in the same manner and to the same extent as other bonds issued pursuant to this section.

Sec. 16. NEW SECTION. 12.72 VISION IOWA AND RESERVE FUNDS.

1. A vision Iowa fund is created and established as a separate and distinct fund in the state treasury. The moneys in the fund are appropriated to the board for purposes of the vision Iowa program established in section 15F.302. Moneys in the fund shall not be subject to appropriation for any other purpose by the general assembly, but shall be used only for the purposes of the vision Iowa fund. The treasurer of state shall act as custodian of the fund and disburse moneys contained in the fund as directed by the board, including automatic disbursements of funds received pursuant to the terms of bond indentures and documents and security provisions to trustees. The fund shall be administered by the board which shall make expenditures from the fund consistent with the purposes of the vision Iowa program without further appropriation. An applicant under the vision Iowa program shall not receive more than seventy-five million dollars in financial assistance from the fund.

2. Revenue for the vision Iowa fund shall include, but is not limited to, the following, which shall be deposited with the treasurer of state or its designee as provided by any bond or security documents and credited to the fund:

a. The proceeds of bonds issued to capitalize and pay the costs of the fund and investment earnings on the proceeds.

b. Interest attributable to investment of money in the fund or an account of the fund.

c. Moneys in the form of a devise, gift, bequest, donation, federal or other grant, reimbursement, repayment, judgment, transfer, payment, or appropriation from any source intended to be used for the purposes of the fund.

3. Moneys in the vision Iowa fund are not subject to section 8.33. Notwithstanding section 12C.7, subsection 2, interest or earnings on moneys in the fund shall be credited to the fund.

4. The treasurer of state may establish reserve funds to secure one or more issues of bonds or notes issued pursuant to section 12.71. The treasurer of state may deposit in a reserve fund established under this subsection the proceeds of the sale of bonds or notes and other money which is made available from any other source. The treasurer of state may allow a reserve fund established under this subsection to be depleted.

Sec. 17. NEW SECTION. 12.73 PLEDGES.

1. It is the intention of the general assembly that a pledge made in respect of bonds or notes shall be valid and binding from the time the pledge is made, that the money or property so pledged and received after the pledge by the authority[2] shall immediately be subject to the lien of the pledge without physical delivery or further act, and that the lien of the pledge shall be valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the treasurer of state whether or not the parties have notice of the lien.

2. The state pledges to and agrees with the holders of bonds or notes issued under section 12.71, that the state will not limit or alter the rights and powers vested in the board or the treasurer of state to fulfill the terms of a contract made with respect to the bonds or notes, or in any way impair the rights and remedies of the holders until the bonds and notes, together with the interest on them including interest on unpaid installments of interest, are fully met and discharged.

Sec. 18. NEW SECTION. 12.74 PROJECTS.

1. The vision Iowa board may undertake a project for two or more applicants jointly or for any combination of applicants, and may combine for financing purposes, with the consent of all of the applicants which are involved, the project and some or all future projects of any applicant, and sections 12.71, 12.72, and 12.73, this section, and sections 12.75 and 12.76

[2] See chapter 1232, §42 herein

apply to and for the benefit of the vision Iowa board and the joint applicants. However, the money set aside in a fund or funds pledged for any series or issue of bonds or notes shall be held for the sole benefit of the series or issue separate and apart from money pledged for another series or issue of bonds or notes of the treasurer of state. To facilitate the combining of projects, bonds or notes may be issued in series under one or more resolutions or trust agreements and may be fully open-ended, thus providing for the unlimited issuance of additional series, or partially open-ended, limited as to additional series.

2. For purposes of this section, "applicant" means a city or county or public organization applying for financial assistance under the vision Iowa program established in section 15F.302.

Sec. 19. NEW SECTION. 12.75 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. 20. NEW SECTION. 12.76 CONSTRUCTION.

Sections 12.71 through 12.75, being necessary for the welfare of this state and its inhabitants, shall be liberally construed to effect its purposes.

Sec. 21. NEW SECTION. 12.81 GENERAL AND SPECIFIC BONDING POWERS — SCHOOL INFRASTRUCTURE PROGRAM.

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

2. Bonds issued under this section are payable solely and only out of the moneys, assets, or revenues of the school infrastructure fund and any bond reserve funds, all of which may be deposited with trustees or depositories in accordance with bond or security documents and pledged by the treasurer of state to the payment thereof. Bonds issued under this section shall contain on their face a statement that the bonds do not constitute an indebtedness of the state. The treasurer of state shall not pledge the credit or taxing power of this state or any political subdivision of this state or make bonds issued pursuant to this section payable out of any moneys except those in the school infrastructure fund.

3. The proceeds of bonds issued by the treasurer of state and not required for immediate disbursement may be deposited with a trustee or depository as provided in the bond documents and invested or reinvested in any investment approved by the treasurer of state and specified in the trust indenture, resolution, or other instrument pursuant to which the bonds are issued without regard to any limitation otherwise provided by law.

4. The bonds shall be:

a. In a form, issued in denominations, executed in a manner, and payable over terms and with rights of redemption, and be subject to such other terms and conditions as prescribed in the trust indenture, resolution, or other instrument authorizing their issuance.

b. Negotiable instruments under the laws of the state and may be sold at prices, at public or private sale, and in a manner, as prescribed by the treasurer of state. Chapters 73A, 74, 74A, and 75 do not apply to the sale or issuance of the bonds.

c. Subject to the terms, conditions, and covenants providing for the payment of the principal, redemption premiums, if any, interest, and other terms, conditions, covenants, and protective provisions safeguarding payment, not inconsistent with this section and as determined by the trust indenture, resolution, or other instrument authorizing their issuance.

5. The bonds are securities in which public officers and bodies of this state; political subdivisions of this state; insurance companies and associations and other persons carrying on an insurance business; banks, trust companies, savings associations, savings and loan associations, and investment companies; administrators, guardians, executors, trustees, and other fiduciaries; and other persons authorized to invest in bonds or other obligations of the state, may properly and legally invest funds, including capital, in their control or belonging to them.

6. Bonds must be authorized by a trust indenture, resolution, or other instrument of the treasurer of state. However, a trust indenture, resolution, or other instrument authorizing the issuance of bonds may delegate to an officer of the issuer the power to negotiate and fix the details of an issue of bonds.

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

8. Bonds issued under the provisions of this section are declared to be issued for a general public and governmental purpose and all bonds issued under this section shall be exempt from taxation by the state of Iowa and the interest on the bonds shall be exempt from the state income tax and the state inheritance and estate tax.

9. Subject to the terms of any bond documents, moneys in the school infrastructure fund may be expended for administration expenses.

10. The treasurer of state may issue bonds for the purpose of refunding any bonds or notes issued pursuant to this section then outstanding, including the payment of any redemption premiums thereon and any interest accrued or to accrue to the date of redemption of the outstanding bonds or notes. Until the proceeds of bonds issued for the purpose of refunding outstanding bonds or notes are applied to the purchase or retirement of outstanding bonds or notes or the redemption of outstanding bonds or notes, the proceeds may be placed in escrow and be invested and reinvested in accordance with the provisions of this section. The interest, income, and profits earned or realized on an investment may also be applied to the payment of the outstanding bonds or notes to be refunded by purchase, retirement, or redemption. After the terms of the escrow have been fully satisfied and carried out, any balance of proceeds and interest earned or realized on the investments may be returned and deposited in the school infrastructure fund. All refunding bonds shall be issued and secured and subject to the provisions of this chapter in the same manner and to the same extent as other bonds issued pursuant to this section.

Sec. 22. NEW SECTION. 12.82 SCHOOL INFRASTRUCTURE AND RESERVE FUNDS.

1. A school infrastructure fund is created and established as a separate and distinct fund in the state treasury under the control of the department of education. The fund shall be used for purposes of the school infrastructure program established in section 292.2.

2. Revenue for the school infrastructure fund shall include, but is not limited to, the following, which shall be deposited with the treasurer of state or its designee as provided by any bond or security documents and credited to the fund:

a. The proceeds of bonds issued to capitalize and pay the costs of the fund and investment earnings on the proceeds.

b. Interest attributable to investment of money in the fund or an account of the fund.

c. Moneys in the form of a devise, gift, bequest, donation, federal or other grant, reimbursement, repayment, judgment, transfer, payment, or appropriation from any source intended to be used for the purposes of the fund.

3. Moneys in the school infrastructure fund are not subject to section 8.33. Notwithstanding section 12C.7, subsection 2, interest or earnings on moneys in the fund shall be credited to the fund.

4. The treasurer of state may establish reserve funds to secure one or more issues of bonds or notes issued pursuant to section 12.81. The treasurer of state may deposit in a reserve fund established under this subsection the proceeds of the sale of its bonds or notes and other money which is made available from any other source. The treasurer of state may allow a reserve fund established under this subsection to be depleted.

Sec. 23. NEW SECTION. 12.83 PLEDGES.

1. It is the intention of the general assembly that a pledge made in respect of bonds or notes shall be valid and binding from the time the pledge is made, that the money or property so pledged and received after the pledge by the authority shall immediately be subject to the lien of the pledge without physical delivery or further act, and that the lien of the pledge shall be valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the treasurer of state whether or not the parties have notice of the lien.

2. The state pledges to and agrees with the holders of bonds or notes issued under section 12.81, that the state will not limit or alter the rights and powers vested in the treasurer of state to fulfill the terms of a contract made by the treasurer of state with respect to the bonds or notes, or in any way impair the rights and remedies of the holders until the bonds and notes, together with the interest on them including interest on unpaid installments of interest, and all costs and expenses in connection with an action or proceeding by or on behalf of the holders, are fully met and discharged. The treasurer of state is authorized to include this pledge and agreement of the state, as it refers to holders of bonds or notes of the authority, in a contract with the holders.[3]

Sec. 24. NEW SECTION. 12.84 LIMITATIONS.

Bonds or notes issued pursuant to section 12.81 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 12.81 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 12.81 are payable solely and only from the sources and special fund provided in section 12.82. Expenses incurred in carrying out sections 12.81 through 12.83, this section, and section 12.85 are payable solely from funds available under those sections.

Sec. 25. NEW SECTION. 12.85 CONSTRUCTION.

Sections 12.81 through 12.84, being necessary for the welfare of this state and its inhabitants, shall be liberally construed to effect its purposes.

DIVISION III

Sec. 26. NEW SECTION. 292.1 DEFINITIONS.

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

1. "Capacity per pupil" means the sum of a school district's property tax infrastructure capacity per pupil and the sales tax capacity per pupil.

2. "Committee" means the school budget review committee established in section 257.30.

3. "Department" means the department of education established in section 256.1.

4. "Fund" means the school infrastructure fund created in section 12.82.

[3] See chapter 1232, §43 herein

5. "Local match percentage" means a percentage equivalent to either of the following, whichever is less:

a. Fifty percent.

b. The quotient of a school district's capacity per pupil divided by the capacity per pupil of the school district at the fortieth percentile, multiplied by fifty percent, except that the percentage in this paragraph shall not be less than twenty percent.

6. "Program" means the school infrastructure program established in section 292.2.

7. "Property tax infrastructure capacity per pupil" means the sum of a school district's levies under sections 298.2 and 298.18 when the levies are imposed to the maximum extent allowable under law in the budget year divided by the school district's basic enrollment for the budget year.

8. "Sales tax capacity per pupil" means the estimated amount of revenues that a school district receives or would receive if a local sales and services tax for school infrastructure is imposed at one percent pursuant to section 422E.2, divided by the school district's basic enrollment for the budget year. For the budget year beginning July 1, 2000, the school district's actual enrollment shall be used in the calculation in place of the school district's basic enrollment for the budget year.

9. "School infrastructure" means activities initiated on or after July 1, 2000, as authorized in section 296.1 but does not include those activities related to stadiums, bus barns, a home or homes of a teacher or superintendent, procuring and improving a site for an athletic field, or improving a site already owned for an athletic field.

Sec. 27. NEW SECTION. 292.2 SCHOOL INFRASTRUCTURE PROGRAM.

1. a. The department shall establish and administer a school infrastructure program to provide financial assistance in the form of grants to school districts with school infrastructure needs.

b. The department of education, in consultation with the department of management, shall annually compute the property tax infrastructure capacity per pupil for each school district in the state.

c. The department of education, in consultation with the department of revenue and finance and the legislative fiscal bureau, shall annually calculate the estimated sales and services tax for school infrastructure, if imposed at one percent, that is or would be received by each school district in the state pursuant to section 422E.3. These calculations shall be made on a total tax and on a tax per pupil basis for each school district.

d. The department of education, in consultation with the department of revenue and finance and the department of management, shall annually compute capacity per pupil and the local match percentage for each school district in the state. The initial calculations shall be released not later than January 1, 2001. For all calculations thereafter, the calculations shall be released not later than July 1 of each year.

2. a. A school district's local match requirement is equivalent to the total investment of a project multiplied by the school district's local match percentage. A school district may submit an application to the department for financial assistance under the program if the school district meets the district's local match requirement through one or more of the following sources:

(1) The issuance of bonds pursuant to section 298.18.

(2) Local sales and services tax moneys received pursuant to section 422E.3.

(3) A physical plant and equipment levy under chapter 298.

(4) Other moneys locally obtained by the school district excluding other state or federal grant moneys.

b. If the project is in collaboration with other public or private entities, the school district shall be eligible to apply for only the school district's portion of the project. As such, state or federal grants received by the other entities cannot be used toward the local match requirement under paragraph "a", subparagraph (4).

c. A school district may submit an application for a project which includes activities at more than one attendance center. However, if the activities relate to new construction, the project shall only relate to one attendance center.

d. A school district may submit an application for conditional approval to the department for financial assistance under the program if the school district submits a plan for securing the school district's local match requirement under paragraph "a". If a school district does not meet the local match requirement of paragraph "a" within nine months of receiving conditional approval from the department, the application for financial assistance shall be denied by the department and the financial assistance shall be carried forward to be made available under the allocation provided under subsection 4, paragraph "d", for the next available grant cycle.

e. For the fiscal year beginning July 1, 2000, applications shall be submitted to the department by March 1, 2001. For the fiscal year beginning July 1, 2001, and every fiscal year thereafter, applications shall be submitted to the department by October 15 of each year.

f. For the fiscal year beginning July 1, 2000, the department shall notify all approved applicants by May 1, 2001, regarding the approval of the application. For the fiscal year beginning July 1, 2001, and every fiscal year thereafter, the department shall notify all approved applicants by December 15 of each year regarding the approval of the application.

g. An applicant which is not successful in obtaining financial assistance under the program may reapply for financial assistance in succeeding years.

3. The application shall include, but shall not be limited to, the following information:

a. The total capital investment of the project.

b. The amount and percentage of moneys which the school district will be providing for the project.

c. The infrastructure needs of the school district, especially the fire and health safety needs of the school district, and including the extent to which the project would allow the school district to meet the infrastructure needs of the school district on a long-term basis.

d. The financial assistance needed by the school district based upon the capacity per pupil.

e. Any previous efforts by the school district to secure infrastructure funding from federal, state, or local resources, including any funding received for any project under the Iowa demonstration construction grant program. The previous efforts shall be evaluated on a case-by-case basis.

f. Evidence that the school district meets or will meet the local match requirement in subsection 2, paragraph "a".

g. The nature of the proposed project and its relationship to improving educational opportunities for the students.

h. Evidence that the school district has reorganized on or after July 1, 2000, or that the school district has initiated a resolution to reorganize by July 1, 2004, or entered into an innovative collaboration with another school district or school districts.

i. Evidence that the school district receives sales and services tax for school infrastructure funding under section 422E.3.

4. A school district shall not receive more than one grant under the program. The financial assistance shall be in the form of grants and shall be allocated in the following manner:

a. Twenty-five percent of the financial assistance each year shall be awarded to school districts with an enrollment of one thousand one hundred ninety-nine students or less.

b. Twenty-five percent of the financial assistance each year shall be awarded to school districts with an enrollment of more than one thousand one hundred ninety-nine students but not more than four thousand seven hundred fifty students.

c. Twenty-five percent of the financial assistance each year shall be awarded to school districts with an enrollment of more than four thousand seven hundred fifty students.

d. Twenty-five percent of the financial assistance each year, any financial assistance not awarded under paragraphs "a" through "c", and financial assistance not awarded in previous fiscal years shall be awarded to school districts with any size enrollment.

5. A district shall receive the lesser of one million dollars of financial assistance under the program, or the total capital investment of the project minus the local match requirement. The program shall provide grants in an amount of not more than ten million dollars during the fiscal year beginning July 1, 2000, not more than twenty million dollars during the fiscal year beginning July 1, 2001, and not more than twenty million dollars during the fiscal year beginning July 1, 2002. If the amount of grants awarded in a fiscal year is less than the maximum amount provided for grants for that fiscal year in this subsection, the amount of the difference shall be carried forward to subsequent fiscal years for purposes of providing grants under the program and the maximum amount of grants for each fiscal year, as provided in this subsection, shall be adjusted accordingly.

6. The school budget review committee shall review all applications for financial assistance under the program and make recommendations regarding the applications to the department. The department shall make the final determination on grant awards. The school budget review committee shall base the recommendations on the criteria established pursuant to subsections 3 and 7.

7. The department shall form a task force to review applications for financial assistance and provide recommendations to the school budget review committee. The task force shall include, at a minimum, representatives from the kindergarten through grade twelve education community, the state fire marshal, and individuals knowledgeable in school infrastructure and construction issues. The department, in consultation with the task force, shall establish the parameters and the details of the criteria for awarding grants based on the information listed in subsection 3, including greater priority to the following:

a. A school district with a lower capacity per pupil.

b. A school district whose plans address specific occupant safety issues.

c. A school district reorganizing or collaborating as described in subsection 3, paragraph "h".

d. A school district for which a sales and services tax for school infrastructure has not been imposed pursuant to section 422E.2 or a school district receiving minimal revenues under section 422E.3 when the total enrollment of the school district is considered.

8. An applicant receiving financial assistance under the program shall submit a progress report to the department of education as requested by the department which shall include a description of the activities under the project, the status of the implementation of the project, and any other information required by the department.

9. If a school district receives financial assistance under the vision Iowa program created under section 15F.302 pursuant to a joint application submitted under section 15F.302, subsection 3, the school district shall not be eligible to receive financial assistance under the school infrastructure program.

10. A school district located in whole or in part in a county which has imposed the maximum rate of sales and services tax for school infrastructure pursuant to section 422E.2 and has sales and services tax for school infrastructure revenue of more than the statewide average of sales tax capacity per pupil, as defined in section 292.1, subsection 8, shall not be eligible for financial assistance under the program. For purposes of this subsection, an individual school district's sales tax capacity per pupil is the estimated total sales and services tax for infrastructure revenue to be actually received by the school district divided by the school district's enrollment as specified in section 292.1, subsection 8.

Sec. 28. NEW SECTION. 292.4 RULES.

The department shall adopt rules, pursuant to chapter 17A, necessary for administering the school infrastructure program and fund.

Sec. 29. Section 384.95, subsection 1, Code 1999, is amended to read as follows:

1. "Public improvement" means any building or construction work, either within or outside the corporate limits of a city, to be paid for in whole or in part by the use of funds of the city, regardless of sources, including a building or improvement constructed or operated

jointly with any other public or private agency, but excluding urban renewal demolition and low-rent housing projects, industrial aid projects authorized under chapter 419, emergency work or work performed by employees of a city or a city utility.

Sec. 30. Sections 15.371 through 15.373, Code Supplement 1999, are repealed.

Sec. 31. REPEAL AND REENACTMENT — CONTINUATION. The repeal and reenactment of Code sections relating to the community attraction and tourism development program and the community attraction and tourism development fund are intended to be a continuation of the prior statutes and not a new enactment, so far as the new enactment is the same as the prior statutes. The repeal and reenactment of Code sections relating to the community attraction and tourism development program and the community attraction and tourism development fund shall not cause moneys in the current community attraction and tourism development fund to revert to any other fund but such moneys shall remain in the community attraction and tourism fund established in Code section 15F.204 for expenditure for subsequent fiscal years. The repeal and reenactment of Code sections relating to the community attraction and tourism development program and the community attraction and tourism development fund shall not nullify any awards made under the program based on appropriations made in 1999 Iowa Acts, chapter 204, section 3, subsection 2, for the fiscal years beginning July 1, 1999, and July 1, 2000.

Sec. 32. This Act prevails over the provisions of 2000 Iowa Acts, House File 2392,[4] if enacted, relating to any amendments to the community attraction and tourism development program and fund, which provisions are void.

Approved May 9, 2000

CHAPTER 1175

HUNTING, FISHING, AND FUR HARVESTING — RESIDENCY STATUS

H.F. 2008

AN ACT providing residency status to certain members of the armed forces for purposes of hunting, fishing, and fur harvesting.

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

Section 1. Section 483A.1A, subsection 4, Code 1999, is amended by adding the following new paragraph:

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

Sec. 2. 2000 Iowa Acts, House File 2486,[1] section 5, if enacted, is amended to read as follows:

SEC. 5. Section 483A.1A, subsection 4, Code 1999, is amended by adding the following new paragraph:

~~d.~~ e. Is registered to vote in this state.

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[4] Not enacted

[1] Chapter 1116 herein

Sec. 3. Section 483A.24, subsection 6, Code Supplement 1999, is amended to read as follows:

6. ~~No~~ A license shall not be required of minor pupils of the state school for the blind, state school for the deaf, ~~nor~~ or of minor residents of other state institutions under the control of an administrator of a division of the department of human services~~, nor shall any~~. In addition, a person who is on active duty with the armed forces of the United States, on authorized leave from a duty station located outside of this state, and a ~~legal~~ resident of the state of Iowa, shall not be required to have a license to hunt or fish in this state. The military ~~personnel~~ person shall carry ~~their~~ the person's leave papers and a copy of the person's current earnings statement showing a deduction for Iowa income taxes while hunting or fishing ~~and, if~~. In lieu of carrying the person's earnings statement, the military person may also claim residency if the person is registered to vote in this state. If a deer or wild turkey is taken, the military person shall immediately contact a state conservation officer to obtain an appropriate tag to transport the animal. ~~No~~ A license shall not be required of residents of county care facilities or any person who is receiving old-age assistance under chapter 249.

Approved May 9, 2000

CHAPTER 1176

WAIVER OR VARIANCE OF ADMINISTRATIVE RULES

H.F. 2206

AN ACT providing for the waiver or variance of administrative rules by state agencies.

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

Section 1. NEW SECTION. 17A.9A WAIVERS AND VARIANCES.

1. Any person may petition an agency for a waiver or variance from the requirements of a rule, pursuant to the requirements of this section, if the agency has established by rule, an application, evaluation, and issuance procedure permitting waivers and variances. An agency shall not grant a petition for waiver or a variance of a rule unless the agency has jurisdiction over the rule and the waiver or variance is consistent with any applicable statute, constitutional provision, or other provision of law. In addition, this section does not authorize an agency to waive or vary any requirement created or duty imposed by statute.

2. Upon petition of a person, an agency may in its sole discretion issue a waiver or variance from the requirements of a rule if the agency finds, based on clear and convincing evidence, all of the following:

a. The application of the rule would pose an undue hardship on the person for whom the waiver or variance is requested.

b. The waiver or variance from the requirements of a rule in the specific case would not prejudice the substantial legal rights of any person.

c. The provisions of a rule subject to a petition for a waiver or variance are not specifically mandated by statute or another provision of law.

d. Substantially equal protection of public health, safety, and welfare will be afforded by a means other than that prescribed in the particular rule for which the waiver or variance is requested.

3. The burden of persuasion rests with the person who petitions an agency for the waiver or variance of a rule. Each petition for a waiver or variance shall be evaluated by the agency based on the unique, individual circumstances set out in the petition. A waiver or variance,

if granted, shall be drafted by the agency so as to provide the narrowest exception possible to the provisions of the rule. The agency may place any condition on a waiver or a variance that the agency finds desirable to protect the public health, safety, and welfare. A waiver or variance shall not be permanent, unless the petitioner can show that a temporary waiver or variance would be impracticable. If a temporary waiver or variance is granted, there is no automatic right to renewal. At the sole discretion of the agency, a waiver or variance may be renewed if the agency finds all of the factors set out in subsection 2 remain valid.

4. A grant or denial of a waiver or variance petition shall be indexed, filed, and available for public inspection as provided in section 17A.3. The administrative code editor and the administrative rules coordinator shall devise a mechanism to identify rules for which a petition for a waiver or variance has been granted or denied and make this information available to the public.

5. Semiannually, each agency which permits the granting of petitions for waivers or variances shall prepare a report of these actions identifying the rules for which a waiver or variance has been granted or denied, the number of times a waiver or variance was granted or denied for each rule, a citation to the statutory provisions implemented by these rules, and a general summary of the reasons justifying the agencies' actions on the waiver or variance request. To the extent practicable, this report shall detail the extent to which the granting of a waiver or variance has established a precedent for additional waivers or variances and the extent to which the granting of a waiver or variance has affected the general applicability of the rule itself. Copies of this report shall be provided semiannually to the administrative rules coordinator and the administrative rules review committee.

6. For purposes of this section, "a waiver or variance" means an agency action which suspends in whole or in part the requirements or provisions of a rule as applied to an identified person on the basis of the particular circumstances of that person.

Approved May 9, 2000

CHAPTER 1177

PROBATION AND PAROLE ADMINISTRATION

H.F. 2519

AN ACT relating to probation and parole by extending the repeal of the sixth judicial district pilot project concerning probation revocation hearings and by establishing the position of vice chairperson of the board of parole, and providing an effective date.

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

Section 1. Section 904A.1, Code 1999, is amended to read as follows:

904A.1 BOARD OF PAROLE.

The board of parole is created to consist of five members. Each member, except the chairperson and the vice chairperson, shall be compensated on a day-to-day basis. Each member shall serve a term of four years beginning and ending as provided by section 69.19, except for members appointed to fill vacancies who shall serve for the balance of the unexpired term. The terms shall be staggered. The chairperson and vice chairperson of the board shall be ~~a~~ full-time, salaried ~~member~~ members of the board. A majority of the members of the board constitutes a quorum to transact business.

Sec. 2. NEW SECTION. 904A.4C VICE CHAIRPERSON OF THE BOARD OF PAROLE.
The vice chairperson of the board of parole shall be appointed from the membership of the board of parole by the governor. The vice chairperson shall serve at the pleasure of the governor and shall have such responsibilities and duties as are determined by the chairperson. The vice chairperson shall act as the chairperson in the absence or disability of the chairperson or in the event of a vacancy in that office, until such time as a new chairperson is appointed by the governor.

Sec. 3. Section 904A.6, Code 1999, is amended to read as follows:
904A.6 SALARIES AND EXPENSES.
Each member, except the chairperson and the vice chairperson, of the board shall be paid per diem as determined by the general assembly. The chairperson and vice chairperson of the board shall be paid a salary as determined by the general assembly. Each member of the board and all employees are entitled to receive, in addition to their per diem or salary, their necessary maintenance and travel expenses while engaged in official business.

Sec. 4. 1998 Iowa Acts, chapter 1197, section 13, is amended to read as follows:
SEC. 13. EFFECTIVE DATES — REPEALS.
1. This division and Division I of this Act, being deemed of immediate importance, take effect upon enactment.
2. Division I of this Act is repealed June 30, ~~2000~~ 2002.
3. Division II of this Act takes effect July 1, ~~2000~~ 2002.

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

Approved May 9, 2000

CHAPTER 1178

PURCHASE OR CONDEMNATION OF PROPERTY BY UTILITIES

S.F. 2327

AN ACT relating to certain procedures for the purchase or condemnation of interest in private property by a utility subject to the jurisdiction of the Iowa utilities board.

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

Section 1. Section 6B.2A, subsection 3, as enacted by 2000 Iowa Acts, House File 2528,[1] section 3, is amended to read as follows:
3. If the acquiring agency is a person required to obtain a franchise under chapter 478, compliance with section 478.2 shall satisfy the ~~notice~~ requirements of this section. If the acquiring agency is a person required to obtain a permit under chapter 479, compliance with section 479.5 shall satisfy the ~~notice~~ requirements of this section.

Approved May 10, 2000

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[1] Chapter 1179 herein

CHAPTER 1179

CONDEMNATION OF PROPERTY — MISCELLANEOUS PROVISIONS

H.F. 2528

AN ACT relating to the condemnation of private property for certain public purposes and providing an effective date.

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

Section 1. Section 6B.1, Code 1999, is amended to read as follows:

6B.1 PROCEDURE PROVIDED.

The procedure for the condemnation of private property for works of internal improvement, and for other public projects, uses ~~and~~, or purposes, unless and except as otherwise provided by law, shall be in accordance with the provisions of this chapter. This chapter shall not apply to the dedication of property to an acquiring agency or to the voluntary negotiation and purchase of property by an acquiring agency.

Sec. 2. Section 6B.2A, subsection 1, Code Supplement 1999, is amended to read as follows:

1. An acquiring agency shall provide written ~~notification~~ notice of a public hearing to each owner and any contract purchaser of record of ~~private property~~ agricultural land that may be the subject of condemnation. The authority under this chapter is not conferred and condemnation proceedings shall not begin unless a good faith effort is made to ~~serve~~ mail and publish the notice as provided in this section on the owner and any contract purchaser of record of the property subject to condemnation. The notice shall be mailed by ordinary mail, not less than thirty days before the date the hearing is held, to the owner and any contract purchaser of ~~record's~~ record of each property or property interest at the owner's and contract purchaser's last known address ~~no less than thirty days~~ as shown in the records of the county auditor not less than seven days nor more than fourteen days prior to the date of mailing. A change in ownership of any such property which is not reflected in the records of the county auditor during the period those records are searched as above provided shall not affect the validity of the notice or any condemnation proceeding commenced on the basis of such notice. The notice shall be given and the public hearing held before adoption of the ordinance, resolution, motion, or other declaration of intent to ~~proceed with~~ fund the final site-specific design for the public improvement, to make the final selection of the route or site location for the public improvement ~~and the acquisition or condemnation~~, or to acquire or condemn, if necessary, all or a portion of the property or an interest in the property for the public improvement. If the location of the public improvement is changed or expanded after the decision has been made to proceed with the public improvement, a notice shall be mailed by ordinary mail no less than thirty days before the adoption of the ordinance, resolution, motion, or other declaration of intent to proceed with a change in the location of the public improvement to the owner and any contract purchaser of record of the land to be acquired or condemned, if necessary, in the new location of the public improvement affected by the change. ~~The notice shall include the statement of individual rights required under section 6B.2B.~~ The mailed notice shall, at a minimum, include the following information:

a. The general nature of the public improvement.

b. ~~The acquiring agency's intended use of the private property~~ A statement of the possibility that the acquiring agency may acquire part or all of the property or interest in the property by condemnation for the public improvement.

c. The process to be followed by the acquiring agency in making the decision to ~~proceed with the public improvement and the acquisition or condemnation~~ fund the final site-specific design for the public improvement, to make the final selection of the route or site location, or to acquire or condemn, if necessary, all or a portion of the property or an interest in the property for public improvement.

d. The time~~,~~ and place~~, and manner~~ of a public hearing at which an opportunity is provided for public input into the decision to ~~proceed with the public improvement and the acquisition or condemnation~~ fund the final site-specific design for the public improvement, to make the final selection of the route or site location, or to acquire or condemn, if necessary, all or a portion of the property or an interest in the property for the public improvement.

e. ~~The current status in the planning process for the public improvement, including meetings held and decisions made~~ The name, address, and telephone number of the person designated by the acquiring agency as the person to contact regarding the public improvement.

f. A statement of rights of individual property owners with respect to the acquisition of their property and the availability of relocation benefits. The attorney general shall adopt by rule pursuant to chapter 17A a statement of rights which may be used in substantial form by any person required to provide the statement of rights as provided in this section.

Sec. 3. Section 6B.2A, subsections 2 and 3, Code Supplement 1999, are amended by striking the subsections and inserting in lieu thereof the following:

2. The acquiring agency shall cause a notice to be published once in a newspaper of general circulation in the county or city where the agricultural land is located. The notice shall be published at least four but no more than twenty days before the public hearing is held as referred to in subsection 1. The published notice shall, at a minimum, include the following information:

a. The general nature of the public improvement.

b. A statement of the possibility that the acquiring agency may acquire part or all of the property or an interest in the property by condemnation for the public improvement.

c. The process to be followed by the acquiring agency in making the decision to fund the final site-specific design for the public improvement, to make the final selection of the route or site location, or to acquire or condemn, if necessary, all or a portion of the property or an interest in the property for the public improvement.

d. The time and place of a public hearing at which an opportunity is provided for public input into the decision to fund the final site-specific design for the public improvement, to make the final selection of the route or site location, or to acquire or condemn, if necessary, all or a portion of the property or an interest in the property for the public improvement.

e. The name, address, and telephone number of the contact person regarding the public improvement.

3. If the acquiring agency is a person required to obtain a franchise under chapter 478, compliance with section 478.2 shall satisfy the notice requirements of this section. If the acquiring agency is a person required to obtain a permit under chapter 479, compliance with section 479.5 shall satisfy the notice requirements of this section.[1]

4. This section shall not apply to a condemnation of property by the state department of transportation for right-of-way that is contiguous to an existing road right-of-way and necessary for the maintenance, safety improvement, or repair of the existing road.

Sec. 4. Section 6B.2A, Code Supplement 1999, is amended by adding the following new subsection:

NEW SUBSECTION. 5. The time deadlines in this section do not apply during the existence of an emergency requiring the construction or repair of public improvements in situations where failure to immediately construct or repair would result in immediate danger to public health, safety, or welfare. The notices required in this section shall be provided to the owner as soon as practicable.

Sec. 5. Section 6B.2B, subsection 1, Code Supplement 1999, is amended to read as follows:

1. The acquiring agency shall make a good faith effort to negotiate with the owner to purchase the private property or property interest before filing an application for condemnation or otherwise proceeding with the condemnation process. An acquiring agency shall not make an offer to purchase the property or property interest that is less than the fair

[1] See chapter 1178, §1 herein

market value the acquiring agency has established for the property or property interest pursuant to the appraisal required in section 6B.45. However, an acquiring agency need not make an offer in excess of that amount in order to satisfy the requirement to negotiate in good faith. An acquiring agency is deemed to have met the requirements of this section if the acquiring agency complies with section 6B.54.

Sec. 6. Section 6B.2B, subsection 2, Code Supplement 1999, is amended by striking the subsection.

Sec. 7. NEW SECTION. 6B.2C APPROVAL OF THE PUBLIC IMPROVEMENT.
The authority to condemn is not conferred, and the condemnation proceedings shall not commence, unless the governing body for the acquiring agency approves the use of condemnation and there is a reasonable expectation the applicant will be able to achieve its public purpose, comply with all applicable standards, and obtain the necessary permits.

Sec. 8. Section 6B.3, subsection 1, paragraph g, Code Supplement 1999, is amended to read as follows:
g. A showing of the minimum amount of land necessary to achieve the public purpose and the amount of land to be acquired by condemnation for the public improvement. Any land to be acquired by condemnation beyond the necessary minimum to complete the project shall be presumed not to be necessary for a public use or public purpose unless the applicant can show that a substantial need exists for the additional property to achieve the public use or public purpose, or that the land in question ~~is of~~ constitutes an uneconomical remnant that has little or no value or utility to the owner, or that the owner consents to the condemnation.

Sec. 9. Section 6B.3, subsection 2, Code Supplement 1999, is amended by striking the subsection and inserting in lieu thereof the following:
2. The applicant shall mail a copy of the application by certified mail to the owner at the owner's last known address and to any record lienholder or encumbrancer of the property at the lienholder's or encumbrancer's last known address. The applicant shall also cause the application to be published once in a newspaper of general circulation in the county, not less than four nor more than twenty days before the meeting of the compensation commission to assess the damages. Service of the application by publication shall be deemed complete on the day of publication.
In lieu of mailing and publishing the application, the applicant may cause the application to be served upon the owner, lienholders, and encumbrancers of the property in the manner provided by the Iowa rules of civil procedure for the personal service of original notice. The application shall be mailed and published or served, as above provided, prior to or contemporaneously with the mailing and publication or service of the list of compensation commissioners as provided in section 6B.4.

Sec. 10. Section 6B.4, unnumbered paragraph 2, Code Supplement 1999, is amended to read as follows:
The chief judge of the judicial district or the chief judge's designee shall select by lot six persons from the list, two persons who are owner-operators of agricultural property when the property to be condemned is agricultural property; two persons who are owners of city property when the property to be condemned is other than agricultural property; and two persons from each of the remaining two representative groups, who shall constitute a compensation commission to assess the damages to all property to be taken by the applicant and located in the county, and shall name a chairperson from the persons selected. The chief judge or the judge's designee may appoint such alternate members and chairpersons to the commission as are deemed necessary and appropriate under the circumstances. A person shall not be selected as a member or alternate member of the compensation commission if the person possesses any interest in the proceeding which would cause the person to

render a biased decision. ~~The clerk of the district court shall send, by ordinary mail, a list of those persons selected to the applicant and to the owner of the property at the owner's last known address. The list shall be provided prior to the mailing, by any party, of a notice of assessment under section 6B.8. If the clerk of the district court is unable to locate an address for the owner of the property, the list shall be published once in a newspaper of general circulation in the county. The applicant shall reimburse the clerk of the district court for the cost of mailing and publication.~~ The applicant shall mail a copy of the list of commissioners and alternates appointed by the chief judge by certified mail to the property owner at the owner's last known address. The applicant shall also cause the list of commissioners and alternates to be published once in a newspaper of general circulation in the county, not less than four nor more than twenty days before the meeting of the compensation commission to assess the damages. Service of the list of commissioners and alternates by publication shall be deemed complete on the day of publication. In lieu of mailing and publishing the list of commissioners and alternates, the applicant may cause the list to be served upon the owner of the property in the manner provided by the Iowa rules of civil procedure for the personal service of original notice. The list of commissioners and alternates shall be mailed and published or served, as above provided, prior to or contemporaneously with service of the notice of assessment as provided in section 6B.8.

Sec. 11. Section 6B.4, unnumbered paragraph 3, Code Supplement 1999, is amended by striking the unnumbered paragraph.

Sec. 12. Section 6B.5, Code 1999, is amended by striking the section and inserting in lieu thereof the following:

6B.5 CHALLENGES TO COMMISSIONERS AND FILLING VACANCIES ON THE COMMISSION.

1. Persons appointed by the chief judge to serve on the compensation commission are excused from the commission if they are removed for cause, stricken by a challenge pursuant to this section, unavailable to serve on the commission, or fail to act in their capacity as commissioners.

2. The applicant may challenge one commissioner without stating cause and the person or persons representing the fee ownership interest in the property may challenge one commissioner without stating cause. A challenge to the appointment of a commissioner shall be filed, in writing, with the sheriff not less than seven days prior to the meeting of the compensation commission, and shall be mailed to the other party by ordinary mail on the day of filing. An alternate commissioner may not be challenged without cause. A challenge filed less than seven days prior to the meeting of the commission shall have no effect.

3. If a person is excused from the commission, the sheriff shall select and notify, not less than twenty-four hours prior to the meeting, the alternate commissioners appointed for that condemnation proceeding, to complete the membership of the commission. Alternate commissioners selected and notified shall have the same qualifications as the person who is being replaced. If no alternates have been appointed, the chief judge of the judicial district shall appoint another person from the list, possessing the same qualifications as the person who is being replaced to complete the membership of the commission.

4. The sheriff shall notify alternate commissioners in the order directed by the chief judge, and the alternate commissioner first notified who is available to serve as a compensation commissioner shall serve in the place of the commissioner who was unable to serve or who was stricken from the panel.

5. If a person is excused from the commission, the applicant and the property owner may stipulate in writing to the selection and notification of a particular alternate having the same qualifications as the person who is being replaced, to complete the membership of the commission. Such stipulation shall be filed with the sheriff not less than seventy-two hours prior to the meeting of the commission.

Sec. 13. NEW SECTION. 6B.6 SHERIFF TO COORDINATE MEETING OF COMMISSIONERS AND PROVIDE MEETING PLACE.

The sheriff of the county in which the property to be condemned is located shall coordinate the meeting of commissioners, shall arrange an appropriate meeting place for commissioners, shall assure that appointed commissioners receive the order of the court appointing them and directing their attendance at the meeting of commissioners, and shall report the unavailability or absence of appointed commissioners to the chief judge, to the applicant, and to the landowner.

Sec. 14. Section 6B.7, Code Supplement 1999, is amended to read as follows:

6B.7 COMMISSIONERS TO QUALIFY.

Before ~~proceeding with the assessment~~ meeting to assess the damages for the taking, all commissioners shall qualify by filing with the sheriff a written oath that they will to the best of their ability faithfully and impartially assess damages and make a written report ~~containing the information used by the commission in~~ assessing the damages to the sheriff. ~~The applicant or the owner may challenge one commissioner without stating cause. A challenge to the appointment of a commissioner must be made to the chief judge of the judicial district no less than seventy two hours before the condemnation jury is set to meet. A commissioner shall be appointed to fill a vacancy resulting from a challenge no less than twenty four hours before the jury is set to meet.~~

Sec. 15. Section 6B.8, Code Supplement 1999, is amended to read as follows:

6B.8 NOTICE OF ASSESSMENT.

The applicant, or the owner or any lienholder or encumbrancer of any land described in the application, may, at any time after the appointment of the commissioners, have the damages to the lands of any such owner assessed by giving the other party, if a resident of this state, thirty days' notice, in writing. The notice shall specify the day and the hour when the ~~commissioners~~ compensation commission will meet, view the premises, and assess the damages. The notice shall be personally served upon all necessary parties in the same manner ~~as original notices~~ provided by the Iowa rules of civil procedure for the personal service of original notice. If a city or county, or an agency of a city or county, is seeking to condemn agricultural land for an industry as that term is defined in section 260E.2, the notice shall inform the landowner that the landowner may request that the compensation commission review the application as provided in section 6B.4A.

~~Service of the notice to a person not a resident of this state shall be by certified mail to the person's last known address. At the same time, the applicant shall cause a notice to be published once in a newspaper of general circulation in the county prior to the day fixed for the appraisement, which day shall be at least thirty days after publication. Service of notice in this manner shall be deemed complete on the day of publication.~~

Sec. 16. Section 6B.14, unnumbered paragraph 1, Code Supplement 1999, is amended to read as follows:

The commissioners shall, at the time fixed in the aforesaid notices, view the land sought to be condemned and assess the damages which the owner will sustain by reason of the appropriation~~; and they~~. The commission shall file ~~their~~ its written report, signed by all commissioners, with the sheriff. At the request of the condemner or the condemnee, the commission shall divide the damages into parts to indicate the value of any dwelling, the value of the land and improvements other than a dwelling, and the value of any additional damages. The appraisement and return may be in parcels larger than forty acres belonging to one person and lying in one tract, unless the agent or attorney of the applicant, or the commissioners, have actual knowledge that the tract does not belong wholly to the person in whose name it appears of record; and in case of such knowledge, the appraisement shall be made of the different portions as they are known to be owned.

Sec. 17. Section 6B.14, Code Supplement 1999, is amended by adding the following new unnumbered paragraph after unnumbered paragraph 1:

NEW UNNUMBERED PARAGRAPH. Prior to the meeting of the commission, the commission or a commissioner shall not communicate with the applicant, property owner, or tenant, or their agents, regarding the condemnation proceedings. The commissioners shall meet in open session to view the property and to receive evidence, but may deliberate in closed session. After deliberations commence, the commission and each commissioner is prohibited from communicating with any party to the proceeding, unless such communication occurs in the presence of or with the consent of the property owner and the other parties who appeared before the commission. 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. 18. Section 6B.25, Code 1999, is amended to read as follows:

6B.25 RIGHT TO TAKE POSSESSION OF LANDS — TITLE.

Upon the filing of the commissioners' report with the sheriff, the applicant may deposit with the sheriff the amount assessed in favor of a claimant, and the applicant, except as otherwise provided, may take possession of the land condemned and proceed with the improvement. An appeal from the assessment does not affect the right, except as otherwise provided. Prior to expiration of the time provided for appeal, the property owner may apply to the district court for release of that part of the damages deposited which the court finds proper. If there is not an appeal by any party, the property owner shall be entitled to the whole of the damages awarded. Upon appeal from the commissioners' award of damages the district court may direct that the part of the amount of damages deposited with the sheriff, as it finds just and proper, be paid to the claimant. If upon trial of the appeal a lesser amount is awarded the difference between the amount so awarded and the amount paid shall be repaid by the person to whom it was paid and upon failure to make the repayment the party shall have judgment entered against the person who received the excess payment. Title to the property or the interests in property passes to the applicant when damages have been finally determined and paid.

Sec. 19. Section 6B.33, Code Supplement 1999, is amended to read as follows:

6B.33 COSTS AND ATTORNEY FEES.

The applicant shall pay all costs of the assessment made by the commissioners and reasonable attorney fees and costs incurred by the condemnee as determined by the commissioners if the award of the commissioners exceeds one hundred ten percent of the final offer of the applicant prior to condemnation. The applicant shall file with the sheriff an affidavit setting forth the most recent offer made to the person whose property is sought to be condemned. Members of such commissions shall receive a per diem of ~~fifty~~ two hundred dollars and actual and necessary expenses incurred in the performance of their official duties. The applicant shall reimburse the county sheriff for the per diem and expense amounts paid by the sheriff to the members. The applicant shall reimburse the owner for the expenses the owner incurred for recording fees, penalty costs for full or partial prepayment of any preexisting recorded mortgage entered into in good faith encumbering the property, and for similar expenses incidental to conveying the property to the applicant. The applicant shall also pay all costs occasioned by the appeal, including reasonable attorney fees to be taxed by the court, unless on the trial thereof the same or a lesser amount of damages is awarded than was allowed by the tribunal from which the appeal was taken.

Sec. 20. Section 6B.45, Code Supplement 1999, is amended to read as follows:

6B.45 MAILING COPY OF APPRAISAL.

When any real property or interest in real property is to be purchased, or in lieu thereof to be condemned, the acquiring agency or its agent shall submit to the person, corporation, or

entity whose property or interest in the property is to be taken, by ordinary mail, at least ten days prior to the date ~~of contact~~ upon which the acquiring agency or its agent contacts the property owner to commence negotiations, a copy of the appraisal in its entirety upon such real property or interest in such real property prepared for the acquiring agency or its agent, which shall include, at a minimum, an itemization of the appraised value of the real property or interest in the property, any buildings on the property, all other improvements including fences, severance damages, and loss of access. The appraisal sent to the condemnee shall be that appraisal upon which the condemnor will rely to establish an amount which the condemnor believes to be just compensation for the real property. All other appraisals made on the property as a result of the condemnation proceeding shall be made available to the condemnee upon request. In lieu of an appraisal, a utility or person under the jurisdiction of the utilities board of the department of commerce, or any other utility conferred the right by statute to condemn private property, shall provide in writing by certified mail to the owner of record thirty days prior to negotiations, the methods and factors used in arriving at an offered price for voluntary easements including the range of cash amount of each component. An acquiring agency may obtain a signed written waiver from the landowner to allow negotiations to commence prior to the expiration of the applicable waiting period for the commencement of negotiations.

Sec. 21. Section 6B.57, Code Supplement 1999, is amended to read as follows:

6B.57 PROCEDURAL COMPLIANCE.

If ~~a city~~ an acquiring agency makes a good faith effort to serve, send, or provide the notices or documents required under this chapter to the owner and any contract purchaser of private property that is or may be the subject of condemnation, but fails to provide the notice or documents to the owner and any contract purchaser, such failure shall not constitute grounds for invalidation of the condemnation proceeding if the chief judge of the judicial district determines that such failure can be corrected by delaying the condemnation proceedings to allow compliance with the requirement ~~and~~ or such failure does not unreasonably prejudice the owner or any contract purchaser.

Sec. 22. Section 478.2, unnumbered paragraphs 2 and 5, Code 1999, are amended to read as follows:

As conditions precedent to the filing of a petition with the utilities board requesting a franchise for a new transmission line, and not less than thirty days prior to the filing of such petition, the person, company, or corporation shall hold informational meetings in each county in which real property or rights therein will be affected. A member of the board, the counsel of the board, or a hearing examiner designated by the board shall serve as the presiding officer at each meeting ~~and~~, shall present an agenda for such meeting which shall include a summary of the legal rights of the affected landowners, and shall distribute and review the statement of individual rights required under section 6B.2A, subsection 1. ~~No~~ A formal record of the meeting shall not be required.

The notice shall set forth the name of the applicant; state the applicant's principal place of business; state the general description and purpose of the proposed project; state the general nature of the ~~right of way~~ right-of-way desired; state the possibility that the right-of-way may be acquired by condemnation if approved by the utilities board; provide a map showing the route of the proposed project; provide a description of the process used by the utilities board in making a decision on whether to approve a franchise or grant the right to take property by eminent domain; advise that the landowner has the right to be present at such meetings and to file objections with the utilities board; designate the place and time of the meeting; be served not less than thirty days prior to the time set for the meeting by certified mail with return receipt requested; and be published once in a newspaper of general circulation in the county at least one week and not more than three weeks before the time of the meeting and such publication shall be considered notice to landowners whose residence is not known.

Sec. 23. Section 478.6, unnumbered paragraph 2, Code 1999, is amended to read as follows:

Where a petition seeks the use of the right of eminent domain over specific parcels of real property, the board shall prescribe the notice to be served upon the owners of record and parties in possession of ~~said~~ the property over which the use of the right of eminent domain is sought. The notice shall include the statement of individual rights required pursuant to section 6B.2A, subsection 1.

Sec. 24. Section 479.5, unnumbered paragraphs 3 and 6, Code 1999, are amended to read as follows:

A pipeline company shall hold informational meetings in each county in which real property or property rights will be affected at least thirty days prior to filing the petition for a new pipeline. A member of the board or a person designated by the board shall serve as the presiding officer at each meeting ~~and~~, shall present an agenda for the meeting which shall include a summary of the legal rights of the affected landowners, and shall distribute and review the statement of individual rights required under section 6B.2A. ~~No~~ A formal record of the meeting shall not be required.

The notice shall set forth the name of the applicant; the applicant's principal place of business; the general description and purpose of the proposed project; the general nature of the right-of-way desired; the possibility that the right-of-way may be acquired by condemnation if approved by the utilities board; a map showing the route of the proposed project; a description of the process used by the utilities board in making a decision on whether to approve a permit including the right to take property by eminent domain; that the landowner has a right to be present at such meeting and to file objections with the board; and a designation of the time and place of the meeting~~; and~~. The notice shall be served by certified mail with return receipt requested not less than thirty days previous to the time set for the meeting; and shall be published once in a newspaper of general circulation in the county. The publication shall be considered notice to landowners whose residence is not known and to each person in possession of or residing on the property provided a good faith effort to notify can be demonstrated by the pipeline company.

Sec. 25. Section 479.7, Code 1999, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Where a petition seeks the use of the right of eminent domain over specific parcels of real property, the board shall prescribe the notice to be served upon the owners of record and parties in possession of the property over which the use of the right of eminent domain is sought. The notice shall include the statement of individual rights required pursuant to section 6B.2A.

Sec. 26. Section 479.46, subsection 3, unnumbered paragraph 2, Code 1999, is amended to read as follows:

~~Sections 6B.10 to 6B.13 apply to this notice.~~ If more than one landowner petitions the county board of supervisors, the application to the chief judge, notice to the pipeline company, and appraisement of damages shall be consolidated into one application, notice, and appraisement. The county attorney may assist in coordinating the consolidated application and notice, but does not become an attorney for the landowners by doing so.

Sec. 27. Section 479A.25, subsection 3, unnumbered paragraph 2, Code 1999, is amended to read as follows:

~~Sections 6B.10 to 6B.13 apply to this notice.~~ If more than one landowner petitions the county board of supervisors, the application to the chief judge, notice to the pipeline company, and appraisement of damages shall be consolidated into one application, notice, and appraisement. The county attorney may assist in coordinating the consolidated application and notice, but does not become an attorney for the landowners by doing so.

Sec. 28. Section 479B.30, subsection 3, unnumbered paragraph 2, Code 1999, is amended to read as follows:

~~Sections 6B.10 to 6B.13 apply to this notice.~~ If more than one landowner petitions the county board of supervisors, the application to the chief judge, notice to the pipeline company, and appraisement of damages shall be consolidated into one application, notice, and appraisement. The county attorney may assist in coordinating the consolidated application and notice, but does not become an attorney for the landowners by doing so.

Sec. 29. Section 6B.12, Code Supplement 1999, and section 6B.13, Code 1999, are repealed.

Sec. 30. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved May 10, 2000

CHAPTER 1180

REGULATION AND INSPECTION OF HEALTH CARE FACILITIES

S.F. 2144

AN ACT relating to regulation and inspection of health care facilities including the establishment of a quality-based inspections system.

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

Section 1. Section 135C.16, subsection 1, Code 1999, is amended to read as follows:

1. In addition to the inspections required by sections 135C.9 and 135C.38, the department shall make or cause to be made such further unannounced inspections as it deems necessary to adequately enforce this chapter. At least one general unannounced inspection shall be conducted for each health care facility within a ~~fifteen-month~~ thirty-month period. The inspector shall show identification to the person in charge of the facility and state that an inspection is to be made before beginning the inspection. An employee of the department who gives unauthorized advance notice of an inspection made or planned to be made under this subsection or section 135C.38 shall be disciplined as determined by the director, except that if the employee is employed pursuant to the merit system provisions of chapter 19A the discipline shall not exceed the discipline authorized pursuant to that chapter.

Sec. 2. Section 135C.38, subsection 3, Code Supplement 1999, is amended to read as follows:

3. An inspection made pursuant to a complaint filed under section 135C.37 need not be limited to the matter or matters ~~complained of; however~~ included in the complaint. However, the inspection shall not be a general inspection unless the complaint inspection coincides with a scheduled general inspection or unless in the course of the complaint investigation a violation is evident to the inspector. Upon arrival at the facility to be inspected, the inspector shall show identification to the person in charge of the facility and state that an inspection is to be made, before beginning the inspection. Upon request of either the complainant or the department or committee, the complainant or the complainant's representative or both may be allowed the privilege of accompanying the inspector during any on-site inspection made pursuant to this section. The inspector may cancel the privilege at any time if the

inspector determines that the privacy of any resident of the facility to be inspected would otherwise be violated. The protection and dignity of the resident shall be given first priority by the inspector and others.

Sec. 3. QUALITY-BASED INSPECTIONS.

1. The department of inspections and appeals shall develop and implement a quality-based inspections system for health care facilities which are licensed only by the state pursuant to chapter 135C. The quality-based system shall be used in inspections of health care facilities beginning with the first inspection of the facility subsequent to the inspection of that facility during the period July 1, 2000, through September 1, 2001.

2. The department of inspections and appeals shall convene an advisory committee of stakeholders to monitor the development and ongoing refinement of the criteria to be used in conducting a quality-based inspection system. The advisory committee shall consult with the department of inspections and appeals regarding the ongoing distribution of the most current criteria to all appropriate stakeholders.

3. The department of inspections and appeals shall submit all of the following to the joint appropriations subcommittee on administration and regulation, to the committees on human resources of both houses, to the governor, and to the legislative fiscal bureau:

a. On or before August 1, 2001, a report which includes all of the following:

(1) The criteria used in the quality-based inspections system.

(2) The survey and complaint activities completed in fiscal year 1999-2000 and fiscal year 2000-2001 for health care facilities licensed only by the state.

b. On or before February 1, 2001, an interim report, and on or before August 1, 2001, a final report, regarding the progress in developing and implementing the quality-based inspections system.

Any of the reports submitted may also include such additional information as requested by the joint appropriations subcommittee on administration and regulation and by the committees on human resources of both houses and may contain recommendations by the department of inspections and appeals of legislative action or program change.

Approved May 11, 2000

CHAPTER 1181

WATER QUALITY DISTRICTS

S.F. 2438

AN ACT relating to the creation of a water quality district, providing for the levy of a tax, and providing for other properly related matters.

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

Section 1. Section 357E.1, subsection 2, Code 1999, is amended to read as follows:

2. "District" means a benefited recreational lake district or a water quality district or a combined district incorporated and organized pursuant to this chapter.

Sec. 2. Section 357E.1, Code 1999, is amended by adding the following new subsection:

NEW SUBSECTION. 5. "Water quality activities" includes, but is not limited to, public information dissemination, creation or maintenance of grass waterways or wetlands, dredging, bank stabilization, water treatment, water monitoring, watershed protection, activities

on lands outside the district which affect water quality within the district, and any other activity which will improve water quality of a stream, river, or lake.

Sec. 3. Section 357E.2, Code 1999, is amended to read as follows:

357E.2 INCORPORATION.

1. If an area of contiguous territory is situated so that the acquisition, construction, reconstruction, enlargement, improvement, equipping, maintenance, and operation of recreation facilities for the residents of the territory will be conducive to the public health, comfort, convenience, water quality, or welfare, the area may be incorporated as a benefited recreational lake district as set forth in this chapter. The land to be included in a district must be contiguous to the recreational lake or to other residential, agricultural, or commercial property which is contiguous to the recreational lake.

2. If an area of contiguous territory is situated so that the performance of water quality activities, including the acquisition, construction, reconstruction, enlargement, improvement, equipping, maintenance, and operation of water quality facilities for the residents of the district will be conducive to the public health, comfort, convenience, water quality, or welfare, the area may be incorporated as a water quality district as provided in this chapter. The land to be included in a district must be contiguous to a stream, river, or lake, or to other property which, except for a public road or other public land, is contiguous to a stream, river, or lake. However, a water quality district shall not be established on open ditches or streams maintained by drainage districts or on streams or rivers where levees are maintained by levee or drainage districts. If a reach of a stream or river in a water quality district later becomes a drainage district facility or becomes levied by a drainage or levee district, the stream or river reach shall be removed from the jurisdiction of the water quality district and the adjacent parcels shall be removed from the water quality district.

3. If an area of contiguous territory is situated so that the specifications of subsections 1 and 2 are met, the area may be incorporated as a combined recreational facility and water quality district as provided in this chapter. If the trustees of a benefited recreational lake district wish to form a combined district or the trustees of a water quality district wish to form a combined district, the trustees may join with the petition required by section 357E.3 to the board of supervisors to proceed with the establishment of a combined district after following the same procedures as provided in this chapter for establishing a separate district.

Sec. 4. Section 357E.3, subsection 1, unnumbered paragraph 1, Code 1999, is amended to read as follows:

The supervisors shall, on the petition of twenty-five percent of the property owners of a proposed benefited recreational lake district if the assessed valuation of the property owned by the petitioners represents at least twenty-five percent of the total assessed value of the proposed district, hold a public hearing concerning the establishment of a proposed district. However, for a proposed water quality district, the petition shall contain signatures of the fewer of twenty-five property owners or twenty-five percent of the property owners of the proposed district. The petition shall include a statement containing the following information:

Sec. 5. Section 357E.8, Code 1999, is amended to read as follows:

357E.8 ELECTION ON PROPOSED LEVY AND CANDIDATES FOR TRUSTEES.

When a preliminary plat has been approved by the board, an election shall be held within the district within sixty days to approve or disapprove the levy of a tax of not more than four dollars per thousand dollars of assessed value on all the taxable property within the benefited recreational lake district except property assessed as agricultural land, and to choose candidates for the offices of trustees of the district. However, for a water quality district, the tax levy shall not exceed twenty-five cents per thousand dollars of assessed value on all taxable property within the district and must be renewed by a similar election every eight years. The tax levy for a combined district shall not exceed four dollars per thousand dollars

of assessed value on all of the taxable property within the district. A tax levy approved for the purposes of this chapter shall not be levied on property assessed as agricultural land. Notice of the election, including the time and place of holding the election, shall be given as provided in section 357E.4. The vote shall be by ballot which shall state clearly the proposition to be voted upon, and any registered voter residing within the district at the time of the election may vote. It is not mandatory for the county commissioner of elections to conduct elections held pursuant to this chapter, but the elections shall be conducted in accordance with chapter 49 when not in conflict with this chapter. Judges shall be appointed by the board from among the registered voters of the district to be in charge of the election. The judges are not entitled to receive pay. The proposition is approved if a majority of those voting on the proposition vote in favor of it.

Approved May 11, 2000

CHAPTER 1182

TRANSPORTATION — AVIATION

H.F. 2458

AN ACT relating to aviation transportation and providing an effective date.

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

Section 1. PRIORITIZING AVIATION ISSUES WITHIN STATE GOVERNMENT.

1. The general assembly finds that air service and aviation issues should be given a higher priority within state government and that improved communication and coordination between various state agencies regarding all issues relating to aviation is necessary. The state department of transportation shall make air service and aviation issues a high priority and provide improved communication and coordination between state agencies, airports, and citizens.

2. The state department of transportation shall increase the emphasis on commercial air service to the citizens of the state and shall continue to support general aviation for the business and leisure interest sectors.

Sec. 2. COMMITTEE ON AIR SERVICE.

1. The department of economic development and the state department of transportation shall jointly establish a committee on air service to examine and act upon issues related to air service in the state. The committee shall be established not later than July 1, 2000.

2. The committee shall consist of at least nine members and shall be composed of geographically diverse representatives of the business community and airports in the state, and shall also include representatives from the state department of transportation and the department of economic development.

3. The committee shall examine the commercial aviation needs of the state and provide recommendations on each of the following:

a. The current unmet needs of Iowa business and leisure travelers.

b. Improvement to the total transportation network of highways, rail, and airports to better meet air service needs.

c. Whether a permanent air service council is needed to study issues related to air service in Iowa.

4. Staffing for the committee shall be jointly provided by the department of economic development and the state department of transportation.

5. The committee shall submit a report to the general assembly by September 1, 2000. The report shall, at a minimum, include the committee's findings and recommendations on the air service issues identified in this Act.

Sec. 3. FINANCIAL INVESTMENT AND ASSISTANCE FOR AVIATION. The general assembly finds that a substantial economic benefit can be achieved for the citizens of the state through competitive passenger and cargo service markets and that public savings and additional economic development opportunities warrant the attention of the state.

Sec. 4. ISSUE REVIEW. The joint appropriations subcommittee on transportation, infrastructure and capitals shall review existing and potential new funding streams for airports.

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

Approved May 11, 2000

CHAPTER 1183

VETERINARY PRACTICE REQUIREMENTS

S.F. 419

AN ACT applying certain veterinary practice requirements to persons providing veterinary medical services, owning a veterinary clinic, or practicing veterinary medicine.

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

Section 1. Section 169.5, Code 1999,[1] is amended by adding the following new subsection:

NEW SUBSECTION. 10. A person who provides veterinary medical services, owns a veterinary clinic, or practices in this state shall obtain a certificate from the board and be subject to the same standards of conduct, as provided in this chapter and rules adopted by the board, as apply to a licensed veterinarian, unless the board determines that the same standards of conduct are inapplicable. The board shall issue, renew, or deny a certificate; adopt rules relating to the standards of conduct; and take disciplinary action against the person, including suspension or revocation of a certificate, in accordance with the procedures established in section 169.14. Certification fees shall be established by the board pursuant to section 169.5, subsection 9, paragraph "j". Fees shall be established in an amount sufficient to fully offset the costs of certification pursuant to this subsection. For the fiscal year beginning July 1, 2001, and ending June 30, 2002, the department shall retain fees collected to administer the program of certifying veterinary clinics and the fees retained are appropriated to the department for the purposes of this subsection. For the fiscal year beginning July 1, 2001, and ending June 30, 2002, notwithstanding section 8.33, fees which remain unexpended at the end of the fiscal year shall not revert to the general fund of the state but shall be available for use for the following fiscal year to administer the program. For the fiscal year beginning July 1, 2002, and succeeding fiscal years, certification fees shall be deposited in the general fund of the state and are appropriated to the department to administer the certification provisions of this subsection. This subsection shall not apply to an animal shelter, as defined in section 162.2, that provides veterinary medical services to animals in the custody of the shelter.

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[1] Code Supplement 1999 probably intended

Sec. 2. CERTIFICATION PROGRAM REPORT. The board of veterinary medicine shall, prior to the implementation of the veterinary clinic certification program pursuant to section 1 of this Act, submit a report to the general assembly prior to January 1, 2001, regarding the status of the board's development of the certification program. The report shall include the criteria to be used for certification, the methods and procedures to be used in the certification process, the anticipated cost of operating the certification program, the estimated certification fee to be charged each clinic, and the general manner of implementation of the program.

Sec. 3. EFFECTIVE DATE. Section 1 of this Act, amending section 169.5, takes effect July 1, 2001.

Approved May 15, 2000

CHAPTER 1184

REMEDIATION OF AGRICHEMICAL SITES

S.F. 466

AN ACT relating to the remediation of agrichemical sites, and establishing a fund.

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

Section 1. NEW SECTION. 161.1 TITLE.
This section shall be known and may be cited as the "Iowa Agrichemical Remediation Act".

Sec. 2. NEW SECTION. 161.2 DEFINITIONS.
1. "Action level" means the same as defined in section 455B.602.
2. "Active site cleanup" means the same as defined in section 455B.602.
3. "Agrichemical" means a fertilizer or pesticide.
4. "Board" means the agrichemical remediation reimbursement board[1] created under section 161.3.
5. "Contaminated site" means the same as defined in section 455B.602.
6. "Contamination" means the same as defined in section 455B.602.
7. "Department" means the department of agriculture and land stewardship.
8. "Fertilizer" means a fertilizer or soil conditioner as defined in section 200.3.
9. "Fertilizer site" means a place where containers used for storing or mixing a fertilizer,[2] if any of the following applies:
a. The container holds one thousand gallons or more of a liquid fertilizer or one thousand pounds or more of a dry fertilizer.
b. The container is in the process of being transported.
10. "Fund" means the agrichemical remediation fund created under section 161.8.
11. "Passive site cleanup" means the same as defined in section 455B.602.
12. "Pesticide" means a pesticide as defined in section 206.2.
13. "Pesticide site" means a place where a container used for storing or mixing a pesticide is located, if any of the following applies:
a. The container holds fifty gallons or more of a liquid pesticide or two hundred pounds or more of a dry pesticide.
b. The container is in the process of being transported.
14. "Prohibited release" means the same as defined in section 455B.602.
15. "Remediation" means the same as defined in section 455B.602.

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[1] Agrichemical remediation board probably intended
[2] According to enrolled Act

16. "Responsible person" means the same as defined in section 455B.602.
17. "Site" means a fertilizer site or a pesticide site.

Sec. 3. NEW SECTION. 161.3 AGRICHEMICAL REMEDIATION BOARD.
1. An agrichemical remediation board is established within the department consisting of seven voting members.
2. The members shall include all of the following:
a. Two public officials who shall include the following:
(1) The secretary of agriculture or the secretary's designee.
(2) The director of the department of natural resources, or the director's designee.
b. Five members appointed by the secretary of agriculture. The members shall include all of the following:
(1) One member who is actively engaged in selling agricultural products on a retail basis, or who represents an association of members actively engaged in selling such products.
(2) One member who is actively engaged in producing agricultural crops.
(3) One member who is actively engaged in the distribution of agrichemicals or who is a representative of an association of members actively engaged in the distribution of agrichemicals.
(4) One person who is actively engaged in the manufacture or distribution of fertilizers or who is a representative of an association of members actively engaged in the manufacture or distribution of fertilizers.
(5) One person who is a pesticide registrant actively engaged in the manufacture and distribution of pesticides as provided in section 206.12 or who represents an association of members licensed as pesticide registrants.
3. The appointed members shall serve terms of three years beginning and ending as provided in section 69.19. However, the secretary shall appoint initial members to serve for less than three years to ensure members serve staggered terms. Appointments to the board shall be based upon the training, experience and capacity of the appointees, and not upon political considerations, other than as provided in sections 69.16 and 69.16A.
a. A vacancy on the board shall be filled in the same manner as an original appointment. A person appointed to fill a vacancy shall serve only for the unexpired portion of the term. An appointed member is eligible for reappointment.
b. An appointed member may be removed from office by the secretary for misfeasance, malfeasance, willful neglect of duty, or other just cause, after notice and hearing, unless the notice and hearing is expressly waived in writing.
c. The appointed members shall 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.
4. The board shall elect a chairperson each year. The board shall meet on a regular basis and at the call of the chairperson or upon the written request to the chairperson of two or more members.
5. The department shall staff the board.

Sec. 4. NEW SECTION. 161.4 BOARD POWERS AND DUTIES.
The board shall have all powers necessary to carry out the functions and duties specified for the board as provided in this chapter. The board shall do all of the following:
1. Execute remediation agreements with eligible persons as provided in section 161.9.
2. Review and determine the eligibility of responsible persons under section 161.9 and claims under section 161.10, and approve administrative costs of the department paid from the fund. Of the moneys appropriated from the fund under section 161.8, for each fiscal year the department may expend at least sixty-five thousand dollars for purposes of administering this chapter, including the support of a full-time equivalent position as defined in section 8.36A. However, if more than sixty-five thousand dollars is required in order to administer

this chapter, the total amount which the department may expend from the fund during any fiscal year for administering this chapter shall not exceed five percent of the balance of the fund on the day of the year of its greatest balance or one hundred fifty thousand dollars, whichever is less.

3. Consult with the department in the adoption of rules necessary for the administration of this chapter. The rules of the department shall contain the rules of the board adopted for its organization, procedures, programs, and requirements as required in this chapter. The rules shall provide for all of the following:

a. The board's organization and parliamentary procedures.

b. Procedures for paying claims as provided in section 161.10.

4. Approve any contract with a person for assuring that remediation is performed in accordance with the provisions of a remediation agreement as provided in section 161.9.

Sec. 5. NEW SECTION. 161.5 REMEDIATION STANDARDS.

Remediation conducted pursuant to a plan of remediation incorporated within a remediation agreement as required in section 161.9 shall be performed according to standards adopted by the department of natural resources pursuant to section 455B.601.

Sec. 6. NEW SECTION. 161.6 PRIORITIZATION.

1. The board may adopt rules to establish criteria for the classification and prioritization of sites upon which contamination has been discovered, subject to a plan for remediation as provided in section 161.9.

2. A contaminated site shall be classified as either high, medium, or low priority.

a. A site shall be considered high priority under any of the following conditions:

(1) Groundwater contamination exceeds action levels and is affecting or likely to affect groundwater used as a drinking water source.

(2) Contamination is affecting or likely to affect surface water bodies to a level which exceeds surface water quality standards under section 455B.173.

(3) Contamination is discovered in an ecologically sensitive area. An ecologically sensitive area is one which is designated by the department.

b. A site shall be considered medium priority if contamination of groundwater exceeds action levels, but does not meet the criteria for classification as a high priority site.

c. A site shall be considered low priority under any of the following conditions:

(1) If soil contamination exists at the site, but no groundwater contamination exists at the site.

(2) If soil contamination exists and groundwater contamination has been discovered, but is below action levels.

3. A site shall be reclassified as a site with a higher or lower classification when the site falls within a higher or lower classification, as provided in a plan for remediation pursuant to section 161.9.

4. The remediation of a site classified under this section shall be administered as follows:

a. For a high priority site, soil and groundwater site cleanup shall include active remediation where technically feasible, until such time as the groundwater contamination levels are below action levels.

b. For a medium priority site, the remediation shall include either monitoring or active or passive site cleanup as determined by the department on a site-by-site basis upon considering the findings of the plan of remediation. However, the remediation shall at least be the same remediation required if the site were classified as a low priority site.

c. For a low priority site, the remediation shall include active site cleanup, if the site cleanup would be more practical and cost-effective than monitoring. If active site cleanup for soil is undertaken, no further action shall be required on the site. If active site cleanup for soil is not undertaken, the site shall be monitored, for a specified period of time as determined by the department.

5. Contaminated groundwater and soil shall be applied on land in accordance with rules adopted by the department. The application rate shall not exceed a level which precludes the resumption of normal farming practices within a two-year period.

6. This chapter does not affect the ability of the department or the United States environmental protection agency to require monitoring or remediation on sites that are placed on the national priorities list pursuant to the federal Comprehensive Environmental Response, Compensation and Liability Act.

Sec. 7. NEW SECTION. 161.8 AGRICHEMICAL REMEDIATION FUND.

1. An agrichemical remediation fund is created within the state treasury under the control of the department.

2. The fund shall consist of any moneys appropriated by the general assembly for placement in the fund, and moneys available to and obtained or accepted by the department from the federal government or private sources for placement in the fund.

3. Moneys in the fund are appropriated exclusively to support agrichemical remediation as provided in this chapter, including the payment of claims under section 161.10 and the administration of this chapter by the board and the department.

4. The treasurer of state shall act as custodian of the fund and disburse amounts contained in the fund as directed by the department, in consultation with the board. The treasurer of state is authorized to invest the moneys deposited in the fund. The income from such investment shall be credited to and deposited in the fund. Notwithstanding section 8.33, moneys in the fund are not subject to reversion to the general fund of the state. The fund shall be administered by the department which shall make expenditures from the fund consistent with the purposes set out in this chapter. The moneys in the fund shall be disbursed upon warrants drawn by the director of revenue and finance pursuant to the order of the department. The finances of the fund shall be calculated on an accrual basis in accordance with generally accepted accounting principles. The auditor of state shall regularly perform audits of the fund.

Sec. 8. NEW SECTION. 161.9 REMEDIATION AGREEMENT.

1. A person is not required to comply with the requirements of this chapter, including the remediation of a site, unless the person is a responsible person who executes a remediation agreement with the board, as provided in this section. The remediation agreement shall provide for all of the following:

a. The terms and conditions required to perform remediation under a plan of remediation as provided in this section, and the payment of claims as provided in section 161.10.

b. A plan for remediation of a site where contamination has been discovered. The plan shall provide procedures for a remediation of the contaminated site, a schedule for providing for the remediation of the site according to remediation standards provided in section 161.5, and the classification and prioritization of sites as provided in section 161.6. The plan may be amended at any time, if approved by the department, if the amendment to the agreement is executed by the responsible person and the board. The plan shall be developed by the responsible person and approved by the department for each site subject to the agreement. The plan shall include all of the following:

(1) A determination as to the extent of the existing soil, groundwater, or surface water contamination.

(2) The proximity of the contamination and the likelihood that the contamination will affect a drinking water well.

(3) The characteristics of the site and the potential for migration of the contamination.

(4) Whether the site is classified as a high, medium, or low priority site, as provided in section 161.6.

The department may require that an initial plan of remediation be submitted prior to execution of a remediation agreement. The department may require that the initial plan

recommend whether a site be classified as a high or medium priority site. The department may require further investigation be conducted to determine the extent of the remediation which should be conducted on the site.

2. a. The department, upon approval of the board, may contract with a person in order to do any of the following:

(1) Consult with the department and the board in reviewing a remediation agreement, including but not limited to investigating a site or recommending approval or denial of a plan for remediation.

(2) Ensure compliance with the plan for remediation as provided in this section. The person may be authorized to provide a statement to a responsible person, stating that the person is eligible for payment of a claim submitted from the fund as provided in section 161.10.

b. The department may execute the contract with a private individual or entity or a state and local government as provided in chapter 28E.

3. A responsible person is eligible to execute a remediation agreement under this section, if the board determines that all of the following apply:

a. The responsible person is not subject to any of the following:

(1) A pending criminal adjudication against the responsible person relating to the contamination.

(2) Criminal sanctions imposed against the responsible person relating to the contamination.

b. Any of the following:

(1) The responsible person performed reasonable measures necessary for the immediate abatement of any prohibited release.

(2) The responsible person has complied or is in the process of complying in a timely manner with orders issued by the state or federal government for remediation of the contaminated site.

4. Unless the department has cause to believe that the responsible person is not eligible, the department shall provide a statement to the responsible person upon request. The statement shall be printed on forms prescribed by the board. The statement shall verify that to the extent of the department's knowledge, the responsible person is eligible under this section. The board may use the statement as evidence of eligibility. The board shall provide the statement with any weight determined appropriate by the board.

5. The state, a state agency, a political subdivision of the state, or federal government, or an agency of the federal government, is not eligible to submit a claim to the board for reimbursement from the fund.

Sec. 9. NEW SECTION. 161.10 PAYMENT OF CLAIMS.

1. The board shall approve a claim against the fund to pay for remediation of a contaminated site, if all of the following apply:

a. The claim is made in a manner and according to procedures contained in a remediation agreement executed by the board and the eligible person and rules adopted by the board.

b. The person who has executed a remediation agreement with the board and is filing the claim is a responsible person eligible under section 161.9.

c. The claim includes all of the following:

(1) Evidence of the contamination, including affidavits of experts, photographs, or documentation by federal or state agencies including the department of natural resources.

(2) The total amount required to pay for all costs related to remediating the site as performed by a qualified person according to a business invoice. The business invoice shall be accompanied by supporting evidence.

(3) Information about any insurance policy required to indemnify the responsible person for costs associated with remediating the contaminated site, including a copy of the policy.

(4) The site has been remediated according to a plan of remediation approved by the department as provided in section 161.9.

(5) The claim is complete and accurate, and contains no false or misleading statements.

(6) The approval by the department, in consultation with the board, of a comprehensive plan by the responsible person for the prevention of future contamination at the site.

2. If the board approves a claim, the board shall reimburse the responsible person by doing any of the following:

a. Providing for the immediate payment of a claim, if the board determines that the contamination causes a clear, present, and impending danger to the public health or the natural environment.

b. Providing for the ordinary payment of a claim as follows:

(1) The board may pay the amount of the claim based on a final statement submitted by a responsible person. The department, in consultation with the board, may establish guidelines for reasonable and necessary charges for specific remediation procedures. Payment shall not exceed these reasonable and necessary charges without prior approval of the board.

(2) Upon a determination that the claim is eligible for payment, the department shall provide for payment of the claim as provided in this subsection.

c. Withholding a portion of the payment as provided in the remediation agreement, for final payment when the department determines that the site has been monitored for a period necessary to ensure that remediation has been successful.

d. The amount of the claim shall be the total amount required to remediate the site subject to all of the following:

(1) A deduction of five thousand dollars.

(2) A deduction in the amount of the insurance payments owed to or received by the responsible person for indemnification of remediation costs. The amount of the insurance payments shall be applied first to satisfy the five thousand dollar deduction required in subparagraph (1).

(3) After making the deductions required in subparagraphs (1) and (2), the department shall provide for payment in the amount of ninety percent of claims up to one hundred thousand dollars, eighty percent of claims over one hundred thousand dollars, but not exceeding two hundred thousand dollars, and seventy percent of claims over two hundred thousand dollars up to two hundred fifty thousand dollars.

(4) The amount of a claim shall not be more than two hundred fifty thousand dollars to pay the costs of remediating a contaminated site.

3. The board shall not provide payments from the fund until the board determines that the claim is reasonable and that the claimant has submitted all evidence necessary in order to support the claim and any expenditure of moneys from the fund. The board shall place conditions or requirements upon the payment of moneys from the fund in order to ensure that the moneys are used to provide remediation in compliance with a remediation plan required pursuant to section 161.9.

4. If at any time the department determines that there are insufficient moneys in the fund to make payment of all claims, the department shall pay claims according to the date that the claims are received by the department. To the extent that a claim cannot be fully satisfied, the department shall order that the unpaid portion of the payment be deferred until the claim can be satisfied. However, the department shall not satisfy claims from moneys dedicated for the administration of the fund.

5. The department shall have a claim on behalf of the fund against any responsible person who files a claim in violation of this chapter for the amount paid for remediation. The responsible person shall be liable for damages. The moneys collected by the department under this subsection shall be deposited into the fund.

Sec. 10. NEW SECTION. 161.11 REPORT.

The department in cooperation with the board shall submit a report to the general assembly by January 10 of each odd-numbered year. The report shall provide a summary and a detailed accounting of the fund's financial condition, including expected revenue and expenses during the following two years.

Sec. 11. Section 455B.601, subsection 1, paragraph a, Code 1999, is amended by striking the paragraph.

Sec. 12. Section 455B.601, subsection 1, paragraph d, Code 1999, is amended to read as follows:

d. ~~The corrective action response requirements~~ A responsible person shall remediate a contaminated site according to standards established by rules adopted pursuant to chapter 17A. Remediation for high, medium, or low priority sites shall be administered in accordance with the following:

(1) Soils and groundwaters on a high priority site shall be ~~actively remediated~~ subject to active cleanup, where technically feasible, until such time as the groundwater contamination levels are below action levels.

(2) Remediation on a medium priority site shall include either monitoring or active or passive ~~remediation and shall be~~ site cleanup as determined by the department on a site-by-site basis based upon the findings of the site plan. Remediation on a medium priority site shall include at least that which would be required on a low priority site.

(3) (a) Active site cleanup for soil ~~remediation~~ shall be required on a low priority site if remediation would be more practical and cost-effective than monitoring.

(b) If active site cleanup for soil ~~remediation~~ on a low priority site is undertaken, no further action shall be required on the site.

(c) If active ~~soil~~ site remediation for soil is not undertaken on a low priority site, ~~a~~ the site shall be monitored, for a specified period of time as determined by the department.

Sec. 13. Section 455B.601, subsection 2, Code 1999, is amended to read as follows:

2. This section is applicable to ~~all sites~~ a site upon which contamination has been discovered, unless ~~corrective action~~ one of the following applies:

a. Remediation on ~~a~~ the site has already been approved by the department and implemented.

b. A responsible person has executed a remediation agreement with the remediation reimbursement board[3] and the responsible person is remediating or has remediated the site pursuant to a plan of remediation as provided in chapter 161.

Sec. 14. NEW SECTION. 455B.602 DEFINITIONS.

As used in this division:

1. "Action level" means action level as provided in 567 IAC ch. 133 or 137.

2. "Active site cleanup" means treating, dispersing, removing, or disposing of contamination located in soil or water, including, but not limited to, excavating soil or installing institutional or technological controls to water quality.

3. "Background levels" means concentrations of a contaminant generally present in the environment in the vicinity of a site or an affected area and not the result of release.

4. "Contaminated site" means a site upon which contamination has been discovered.

5. "Contamination" means the presence of one or more pesticides, as defined in section 206.2, or the presence of fertilizer, as defined in section 200.3, in soil or groundwater at levels above those that would result at normal field application rates or above background levels.

6. "Passive site cleanup" means the removal or treatment of a contaminant in soil or water through management practices or the construction of barriers, trenches, and other similar facilities for prevention of contamination, as well as the use of natural processes such as groundwater recharge, natural decay, and chemical or biological decomposition.

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[3] Agrichemical remediation board probably intended

7. "Remediation" means a process used to protect the public health and safety or the environment from contamination, including by doing all of the following:

a. Controlling, containing, or stabilizing the effects caused by a prohibited release.

b. Investigating, identifying, or analyzing a contaminant or a contamination source; collecting samples, including soil and water samples; assessing the condition of a site; monitoring a contaminated site; providing for structural testing; or providing for engineering services.

c. Providing for site cleanup.

8. a. "Responsible person" means a person who is legally liable for the contamination or who is legally responsible for abating contamination under any applicable law, including chapters 455B and 455E, and the common law. This may include a person causing, allowing, or otherwise participating in the activities or events which cause the contamination, persons who have failed to conduct their activities so as to prevent the release of contaminants into groundwater, persons who are obligated to abate a condition, or persons responsible for or a successor to such persons.

b. "Responsible person" does not include a person who caused contamination by acting in a manner unauthorized by the owner of the pesticide or fertilizer, including a person who trespasses upon a site.

9. "Site cleanup" means measures used to contain, reduce, or eliminate contamination present at a site including by using active site cleanup or passive site cleanup measures, or complying with a correction action required or recommended by the department of natural resources or the United States environmental protection agency.

Sec. 15. FULL-TIME EQUIVALENT POSITIONS. There is authorized for the fiscal year beginning July 1, 2000, and ending June 30, 2001, the following full-time equivalent positions within the department of agriculture and land stewardship, in order to support administration of chapter 161, as enacted by this Act, in addition to any other full-time equivalent positions authorized by the Seventy-eighth General Assembly, 2000 Session, to support the department:

..... FTEs 2.00

Approved May 15, 2000

CHAPTER 1185

MASSAGE THERAPY — LICENSING

S.F. 2113

AN ACT relating to the licensing of individuals engaged in the healing art of massage therapy.

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

Section 1. Section 147.2, Code 1999, is amended to read as follows:

147.2 LICENSE REQUIRED.

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, or mortuary science 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. 2. Section 152C.1, subsection 2, Code 1999, is amended to read as follows:

2. "Massage therapist" means a person licensed to practice the health care service of the healing art of massage therapy under this chapter.

Sec. 3. Section 152C.1, subsection 3, Code 1999, is amended to read as follows:

3. "Massage therapy" means performance for compensation of massage, myotherapy, massotherapy, bodywork, bodywork therapy, or therapeutic massage including hydrotherapy, superficial hot and cold applications, vibration and topical applications, or other therapy which involves manipulation of the muscle and connective tissue of the body, excluding osseous tissue, to treat the muscle tonus system for the purpose of enhancing health, muscle relaxation, increasing range of motion, reducing stress, relieving pain, or improving circulation. "Massage therapy" does not include diagnosis or service which requires a license to practice medicine or surgery, osteopathic medicine and surgery, osteopathy, chiropractic, cosmetology arts and sciences, or podiatry, and does not include service performed by athletic trainers, technicians, nurses, occupational therapists, or physical therapists who act under a professional license, certificate, or registration or under the prescription or supervision of a person licensed to practice medicine or surgery or osteopathic medicine and surgery.

Sec. 4. Section 152C.4, Code 1999, is amended by striking the section and inserting in lieu thereof the following:

152C.4 PRACTICING AS A MASSAGE THERAPIST WITHOUT A LICENSE — EMPLOYMENT OF PERSON NOT LICENSED — CIVIL PENALTY.

1. The board, or its authorized agents, may inspect any facility that advertises or offers the services of massage therapy. The board may, by order, impose a civil penalty upon a person who practices as a massage therapist without a license issued under this chapter or a person or business that employs an individual who is not licensed under this chapter. The penalty shall not exceed one thousand dollars for each offense. Each day of a continued violation after an order or citation by the board constitutes a separate offense, with the maximum penalty not to exceed ten thousand dollars. In determining the amount of a civil penalty, the board may consider the following:

a. Whether the amount imposed will be a substantial economic deterrent to the violation.

b. The circumstances leading to or resulting in 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 welfare or best interest of the public.

2. Before issuing an order or citation under this section, the board shall provide 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 as provided in chapter 17A. The board may, in connection with a proceeding under this section, 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.

3. A person aggrieved by the imposition of a civil penalty under this section may seek judicial review in accordance with section 17A.19. The board shall notify the attorney general of the failure to pay a civil penalty within thirty days after entry of an order pursuant to subsection 1, or within ten days following final judgment in favor of the board if an order has been stayed pending appeal. The attorney general may commence an action to recover the amount of the penalty, including reasonable attorney fees and costs. An action to enforce an order under this section may be joined with an action for an injunction.

Sec. 5. Section 152C.5, Code 1999, is amended by striking the section and inserting in lieu thereof the following:

152C.5 PRACTICE OR USE OF TITLE — LICENSE REQUIRED.

The practice of massage therapy as defined in section 152C.1 is strictly prohibited by unlicensed individuals. It is unlawful for a person to engage in or offer to engage in the practice of massage therapy, or use in connection with the person's name, the initials "L.M.T." or the words "licensed massage therapist", "massage therapist", "masseur", "masseuse", or any other word or title that implies or represents that the person practices massage therapy, unless the person possesses a license issued under the provisions of section 152C.3.

Sec. 6. NEW SECTION. 152C.8 TRANSITION PROVISIONS.

1. An applicant for a license to practice massage therapy applying prior to July 1, 2002, shall not be required to meet the completion of curriculum of massage therapy requirements contained in section 152C.3, subsection 1, paragraph "a". The applicant shall, however, be required to pass the board-approved national certification examination and pay the applicable licensing fee.

2. Applicants with a license that has lapsed prior to July 1, 2000, who apply for reinstatement prior to July 1, 2002, shall be required to complete a reinstatement application and pay a renewal fee and reinstatement fee pursuant to section 147.11 and section 147.80, subsection 26. Penalty fees otherwise incurred pursuant to section 147.10, and continuing education requirements applicable to the period prior to licensure reinstatement, shall be waived by the board.

3. Applicants with a license that has lapsed prior to July 1, 2000, who do not apply for reinstatement prior to July 1, 2002, shall be required to apply for reinstatement in accordance with lapsed license reinstatement provisions established by rule of the board.

Approved May 15, 2000

CHAPTER 1186

SCHOOL FINANCE FORMULA — CONTINUATION — REVIEW

S.F. 2252

AN ACT eliminating the future repeal of the school finance formula and providing for periodic legislative review.

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

Section 1. 1989 Iowa Acts, chapter 135, section 135, is repealed effective July 1, 2000.

Sec. 2. Section 257.1, Code Supplement 1999, is amended by adding the following new subsection:

NEW SUBSECTION. 4. LEGISLATIVE REVIEW. The provisions of this chapter shall be subject to legislative review at least every five years. The review shall be based upon a school finance formula status report containing the recommendations of a legislative interim committee appointed to conduct a review of the school finance formula, to be prepared with the assistance of the department of education, in association with the departments of management and revenue and finance. The report shall include recommendations for school finance formula changes or revisions based upon demographic changes, enrollment trends,

and property tax valuation fluctuations observed during the preceding five-year interval; an analysis of the operation of the school finance formula during the preceding five-year interval; and a summary of issues that have arisen since the previous review and potential approaches for their resolution. The first such report shall be submitted to the general assembly no later than January 1, 2005, with subsequent reports developed and submitted by January 1 at least every fifth year thereafter.

Approved May 15, 2000

CHAPTER 1187

SCHOOL BOARD MEMBERS — INTEREST IN SCHOOL CONTRACTS

S.F. 2331

AN ACT relating to the interest a member of the board of directors of a school corporation may have in a contract with the director's school corporation.

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

Section 1. Section 279.7A, Code 1999, is amended to read as follows:

279.7A INTEREST IN PUBLIC CONTRACTS PROHIBITED — EXCEPTION.

A member of the board of directors of a school corporation shall not have an interest, direct or indirect, in a contract for the purchase of goods, including materials and profits, and the performance of services for the director's school corporation. A contract entered into in violation of this section is void. This section does not apply to contracts for the purchase of goods or services, which benefit a director, if the benefit to the director does not exceed ~~one~~ two thousand five hundred dollars in a fiscal year, and contracts made by a school board, upon competitive bid in writing, publicly invited and opened.

Approved May 15, 2000

CHAPTER 1188

TERMINOLOGY CHANGES — ARMED FORCES — GENDER — LESSORS OF PROPERTY

H.F. 475

AN ACT concerning nonsubstantive gender-related provisions in the Code.

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

Section 1. Section 331.441, subsection 2, paragraph c, subparagraph (1), Code 1999, is amended to read as follows:

(1) A memorial building or monument to commemorate the service rendered by ~~soldiers, sailors, and marines~~ members of the armed services of the United States, including the

acquisition of ground and the purchase, erection, construction, reconstruction, and equipment of the building or monument, to be managed by a commission as provided in chapter 37.

Sec. 2. Section 554.1102, subsection 5, Code 1999, is amended to read as follows:

5. In this chapter, unless the context otherwise requires~~:~~,

~~a.~~ words in the singular number include the plural, and in the plural include the singular~~;~~.

~~b. words of the masculine gender include the feminine and the neuter, and when the sense so indicates words of the neuter gender may refer to any gender.~~

Sec. 3. Section 602.8105, subsection 2, paragraph c, Code 1999, is amended to read as follows:

c. For a certificate and seal, ten dollars. However, there shall be no charge for a certificate and seal to an application to procure a pension, bounty, or back pay for a ~~soldier~~ member of the armed services or other person.

Sec. 4. Section 633.4, Code 1999, is repealed.

Sec. 5. AMENDMENTS CHANGING TERMINOLOGY — DIRECTIVES TO CODE EDITOR.

1. Sections 10.1, 10.4, 10.6, 203C.16, 216.8A, 216C.5, 216C.10, 216C.11, 384.80, 425.33, 425.34, 425.35, 425.36, 435.1, 435.33, 486.7, 499.13, 499A.11, 560.2, 562A.1, 562A.2, 562A.5, 562A.6, 562A.9, 562A.10, 562A.11, 562A.12, 562A.13, 562A.14, 562A.15, 562A.16, 562A.18, 562A.19, 562A.20, 562A.21, 562A.22, 562A.23, 562A.24, 562A.25, 562A.26, 562A.27, 562A.27A, 562A.28, 562A.29, 562A.30, 562A.31, 562A.32, 562A.33, 562A.34, 562A.35, 562A.36, 562B.1, 562B.2, 562B.6, 562B.7, 562B.10, 562B.11, 562B.12, 562B.13, 562B.14, 562B.15, 562B.16, 562B.17, 562B.19, 562B.20, 562B.22, 562B.23, 562B.24, 562B.25, 562B.25A, 562B.26, 562B.28, 562B.30, 562B.31, 563B.32, 570.1, 570.3, 570.5, 570.9, 646.2, 646.10, 646.11, 648.3, and 679.5, Code 1999, are amended by striking from the sections the word "landlord" and inserting in lieu thereof the words "property lessor".

2. Sections 384.84, 425.17, 562A.8, 562B.9, 562B.18, 562B.27, 627.6, 808B.5, 808B.12, and 808B.13, Code Supplement 1999, are amended by striking from the sections the word "landlord" and inserting in lieu thereof the words "property lessor".

3. Sections 554.9104, 562A.12, 562A.13, 562A.15, 562A.18, 562A.19, 562A.21, 562A.22, 562A.23, 562A.24, 562A.26, 562A.27, 562A.27A, 562A.30, 562A.34, 562A.36, 562B.13, 562B.14, 562B.19, 562B.24, 562B.25, 562B.25A, 562B.28, 562B.30, 562B.32, 570.3, 570.4, 570.6, 570.7, 570.9, 571.2, and 646.11, Code 1999, are amended by striking from the sections the word "landlord's" and inserting in lieu thereof the words "property lessor's".

4. Sections 321.47, 562A.8, 562B.9, and 562B.27, Code Supplement 1999, are amended by striking from the sections the word "landlord's" and inserting in lieu thereof the words "property lessor's".

5. The Iowa Code editor is directed to strike the words "landlord" and "landlord's" and insert the words "property lessor" and "property lessor's" wherever the word "landlord" or "landlord's" appears in the Iowa Code unless a contrary intent is clearly evident.[1]

Approved May 15, 2000

[1] See chapter 1232, §38 herein

CHAPTER 1189

ELECTRONIC COMMERCE

H.F. 2205

AN ACT relating to electronic commerce by establishing requirements for electronic transactions and electronic records, relating to sales and use tax exemption for access to electronic commerce, and providing penalties.

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

Section 1. NEW SECTION. 554D.101 SHORT TITLE.
This chapter shall be known and may be cited as the "Uniform Electronic Transactions Act".

Sec. 2. NEW SECTION. 554D.102 LEGISLATIVE INTENT.
It is the intent of the general assembly in enacting this chapter to effectuate all of the following purposes:

1. Facilitate electronic communications by means of reliable electronic records.
2. Facilitate and promote electronic commerce, by eliminating barriers resulting from uncertainties over writing and signature requirements, and promote the development of the legal and business infrastructure necessary to implement secure electronic commerce.
3. Facilitate electronic filing of documents with state and local government agencies and promote efficient delivery of government services by means of reliable electronic records.
4. Minimize the incidence of forged electronic records, intentional and unintentional alteration of records, and fraud in electronic commerce.
5. Promote public confidence in the integrity, reliability, and legality of electronic records and electronic commerce.

Sec. 3. NEW SECTION. 554D.103 DEFINITIONS.
As used in this chapter, unless the context otherwise requires:

1. "Agreement" means the bargain of the parties in fact, as found in their language or inferred from other circumstances and from rules, regulations, and procedures given the effect of agreements under laws otherwise applicable to a particular transaction.
2. "Automated transaction" means a transaction conducted or performed, in whole or in part, by electronic means or electronic records, in which the acts or records of one or both parties are not reviewed by an individual in the ordinary course of forming a contract, performing under an existing contract, or fulfilling an obligation required by the transaction.
3. "Computer program" means a set of statements or instructions to be used directly or indirectly in an information processing system in order to bring about a certain result.
4. "Consumer" means an individual engaged in a transaction for personal, family, or household purposes.
5. "Consumer transaction" means a transaction by an individual for personal, family, or household use.
6. "Contract" means the total legal obligation resulting from the parties' agreement as affected by this chapter and other applicable law.
7. "Digital signature" means a type of electronic signature consisting of a transformation of electronic record using a message digest function that is encrypted with an asymmetric cryptosystem using the signer's private key in a manner providing that any person having the initial untransformed electronic record, the encrypted transformation, and the signer's public key may accurately determine all of the following:

a. Whether the transformation was created using the private key that corresponds to the signer's public key.
b. Whether the initial electronic record has been altered since the transformation was made.

8. "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

9. "Electronic agent" means a computer program or an electronic or other automated means used independently to initiate an action or respond to electronic records or performances in whole or in part, without review or action by an individual.

10. "Electronic record" means a record created, generated, sent, communicated, received, or stored by electronic means.

11. "Electronic signature" means an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.

12. "Governmental agency" means an executive, legislative, or judicial agency, department, board, commission, authority, institution, or instrumentality of the federal government or of a state or of a county, municipality, or other political subdivision of a state.

13. "Information" means data, text, images, sounds, codes, computer programs, software, databases, or the like.

14. "Information processing system" means an electronic system for creating, generating, sending, receiving, storing, displaying, or processing information.

15. "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, governmental agency, public corporation, or any other legal or commercial entity.

16. "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.

17. "Security procedure" means a procedure employed for the purpose of verifying that an electronic signature, record, or performance is that of a specific person or for detecting changes or errors in the information in an electronic record. "Security procedure" includes a procedure that requires the use of algorithms or other codes, identifying words or numbers, encryption, or callback or other acknowledgment procedures, and includes digital signature technology.

18. "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. "State" includes an Indian tribe or band, or Alaskan native village, which is recognized by federal law or formally acknowledged by a state.

19. "Transaction" means an action or set of actions occurring between two or more persons relating to the conduct of business, consumer, commercial, or governmental affairs.

Sec. 4. NEW SECTION. 554D.104 SCOPE.

1. Except as provided in subsection 2, this chapter applies to electronic records and electronic signatures relating to a transaction.

2. a. (1) This chapter does not apply to the following:

(a) An application which would involve construction of a rule of law that is clearly inconsistent with the manifest intent of the body imposing the requirement or repugnant to the context of the same rule of law. However, the mere requirement that information be in writing, written, or printed shall not by itself be sufficient to establish an intent which is inconsistent with the requirement of this section.

(b) With respect to a consumer transaction, a record that serves as a unique and transferable physical expression of rights and obligations including, without limitation, negotiable instruments and other instruments of title where possession of the instrument is deemed to confer title.

(c) An electronic transaction initiated at a satellite terminal, as defined in section 527.2, or the processing and routing of transaction data by a central routing unit or a data processing center, each as defined in section 527.2.

(2) Except as provided under paragraph "b", this chapter does not apply to a transaction to the extent it is governed by any of the following:

(a) A disclosure requirement associated with a consumer transaction, including, but not limited to, such disclosures required under chapter 13C, sections 321.69 and 321.71,

chapters 516D, 523A, 523B, 523E, 523G, 533D, 537, 537B, 538A, 552, 552A, 555A, 557A, 557B, 558A, 562A, and 562B, section 714.16, and chapters 714B and 714D, or an administrative rule adopted pursuant to such sections or chapters.

(b) A rule of law governing the creation or execution of a will or trust, living will, a general, durable, or healthcare power of attorney, or a voluntary, involuntary, or standby guardianship or conservatorship.

(c) Chapter 554 other than articles 2 and 13 and sections 554.1107 and 554.1206.

b. This chapter applies to an electronic record or electronic signature otherwise excluded from the application of this chapter under paragraph "a" to the extent it is governed by a law other than those specified in paragraph "a", subparagraph (2).

3. A transaction subject to this chapter is also subject to other applicable substantive law.

4. A choice of law provision, which is contained in a computer information agreement that governs a transaction subject to this chapter, that[1] provides that the contract is to be interpreted pursuant to the laws of a state that has enacted the uniform computer information transactions Act, as proposed by the national conference of commissioners on uniform state laws, or any substantially similar law, is voidable and the agreement shall be interpreted pursuant to the laws of this state if the party against whom enforcement of the choice of law provision is sought is a resident of this state or has its principal place of business located in this state. For purposes of this subsection, a "computer information agreement" means an agreement that would be governed by the uniform computer information transactions Act or substantially similar law as enacted in the state specified in the choice of laws provision if that state's law were applied to the agreement.

Sec. 5. NEW SECTION. 554D.105 PROSPECTIVE APPLICATION.

This chapter applies to an electronic record or electronic signature created, generated, sent, communicated, received, or stored on or after the effective date of this Act.

Sec. 6. NEW SECTION. 554D.106 USE OF ELECTRONIC RECORDS AND ELECTRONIC SIGNATURES — VARIATION BY AGREEMENT.

1. This chapter does not require a record or signature to be created, generated, sent, communicated, received, stored, or otherwise processed or used by electronic means or in electronic form.

2. This chapter applies only to transactions between parties each of which has agreed to conduct transactions by electronic means. Whether the parties agree to conduct a transaction by electronic means is determined from the context and surrounding circumstances, including the parties' conduct.

3. A party who agrees to conduct a transaction by electronic means may refuse to conduct other transactions by electronic means. The right granted by this subsection may not be waived by agreement.

4. Except as otherwise provided in this chapter, the effect of any of its provisions may be varied by agreement. The presence in certain provisions of this chapter of the words "unless otherwise agreed", or words of similar import, does not imply that the effect of other provisions may not be varied by agreement.

5. Whether an electronic record or electronic signature has legal consequences is determined by this chapter and other applicable law.

Sec. 7. NEW SECTION. 554D.107 CONSTRUCTION AND APPLICATION.

This chapter shall be construed and applied as follows:

1. To facilitate electronic transactions consistent with other applicable law.

2. To be consistent with reasonable practices concerning electronic transactions and with the continued expansion of those practices.

3. To effectuate its general purpose to make uniform the law with respect to the subject of this chapter among states enacting the uniform law.

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[1] See chapter 1232, §29 herein

Sec. 8. NEW SECTION. 554D.108 LEGAL RECOGNITION OF ELECTRONIC RECORDS, ELECTRONIC SIGNATURES, AND ELECTRONIC CONTRACTS.

1. A record or signature shall not be denied legal effect or enforceability solely because it is in electronic form.

2. A contract shall not be denied legal effect or enforceability solely because an electronic record was used in its formation.

3. If a law requires a record to be in writing, an electronic record satisfies the law.

4. If a law requires a signature, an electronic signature satisfies the law.

Sec. 9. NEW SECTION. 554D.108A LEGAL RECOGNITION OF ELECTRONIC RECORDS AFFECTING INTERESTS IN REAL PROPERTY.

An electronic record that grants a legal or equitable interest in real property, including a deed, mortgage, deed of trust, pledge, security interest, or other lien or encumbrance, and any disclosure required under chapter 558A shall comply with all of the following:

1. Be created using a security procedure and signed by use of a digital signature.

2. Shall not be recorded or have effect against third parties until a duplicate paper original of the electronic record is executed in writing by the parties, acknowledged, and recorded. The burden of proof that the duplicate paper original of the electronic record is identical to the original electronic record rests upon the party submitting the duplicate paper original.

3. Comply with all requirements of Iowa law regarding the recording of instruments and all other applicable state requirements.

Sec. 10. NEW SECTION. 554D.109 PROVISION OF INFORMATION IN WRITING — PRESENTATION OF RECORDS.

1. If parties have agreed to conduct a transaction by electronic means and a law requires a person to provide, send, or deliver information in writing to another person, the requirement is satisfied if the information is provided, sent, or delivered in an electronic record capable of retention by the recipient at the time of receipt. An electronic record is not capable of retention by the recipient if the sender or its information processing system inhibits the ability of the recipient to print or store the electronic record.

2. If a law other than this chapter requires a record to be posted or displayed in a certain manner; to be sent, communicated, or transmitted by a specified method; or to contain information that is formatted in a certain manner, all of the following apply:

a. The record must be posted or displayed in the manner specified in the other law.

b. Except as otherwise provided in subsection 4, paragraph "b", the record must be sent, communicated, or transmitted by the method specified in the other law.

c. The record must contain the information formatted in the manner specified in the other law.

3. If a sender inhibits the ability of a recipient to store or print an electronic record, the electronic record is not enforceable against the recipient.

4. The requirements of this section shall not be varied by agreement, except as follows:

a. To the extent a law other than this chapter requires information to be provided, sent, or delivered in writing but permits that requirement to be varied by agreement, the requirement under subsection 1 that the information be in the form of an electronic record capable of retention may also be varied by agreement.

b. A requirement under a law other than this chapter to send, communicate, or transmit a record by delivery in person, by mail postage prepaid, or by courier may be varied by agreement to the extent permitted by the other law.

Sec. 11. NEW SECTION. 554D.110 ATTRIBUTION AND EFFECT OF ELECTRONIC RECORD AND ELECTRONIC SIGNATURE.

1. An electronic record or electronic signature is attributable to a person if it was the act of the person. The act of the person may be shown in any manner, including a showing of the efficacy of any security procedure applied to determine the person to which the electronic record or electronic signature was attributable.

2. The effect of an electronic record or electronic signature attributed to a person under subsection 1 is determined from the context and surrounding circumstances at the time of its creation, execution, or adoption, including the parties' agreement, if any, and otherwise as provided by law.

3. In addition to subsections 1 and 2, in a consumer transaction, the attribution and effect of an electronic record and an electronic signature is determined by the substantive law governing the transaction.

Sec. 12. NEW SECTION. 554D.111 EFFECT OF CHANGE OR ERROR.

If a change or error in an electronic record occurs in a transmission between parties to a transaction, the following rules apply:

1. If the parties have agreed to use a security procedure to detect changes or errors and one party has conformed to the procedure, but the other party has not, and the nonconforming party would have detected the change or error had that party also conformed, the conforming party may avoid the effect of the changed or erroneous electronic record.

2. In an automated transaction involving an individual, the individual may avoid the effect of an electronic record that resulted from an error made by the individual in dealing with the electronic agent of another person if the electronic agent did not provide an opportunity for the prevention or correction of the error and, at the time the individual learns of the error, all of the following apply:

a. The individual promptly notifies the other person of the error and that the individual does not intend to be bound by the electronic record received by the other person.

b. The individual takes reasonable steps, including steps that conform to the other person's reasonable instructions, to return to the other person or, if instructed by the other person, to destroy the consideration received, if any, as a result of the erroneous electronic record.

c. The individual has not used or received any benefit or value from the consideration, if any, received from the other person.

3. If subsection 1 or 2 does not apply, the change or error has the effect provided by other law, including the law of mistake, and the parties' contract, if any.

4. In a consumer transaction, any substantive law limiting a consumer's liability shall apply to an electronic transaction.

5. Subsections 2, 3, and 4 shall not be varied by agreement of the parties.

Sec. 13. NEW SECTION. 554D.112 NOTARIZATION AND ACKNOWLEDGMENT.

If a law requires a signature or record to be notarized, acknowledged, verified, or made under oath, the requirement is satisfied if the electronic signature of the person authorized to perform those acts, together with all other information required to be included by other applicable law, is attached to or logically associated with the signature or record.

Sec. 14. NEW SECTION. 554D.113 RETENTION OF ELECTRONIC RECORDS — ORIGINALS.

1. If a law requires that a record be retained, the requirement is satisfied by retaining an electronic record of the information in the record which does both of the following:

a. Accurately reflects the information set forth in the record after it was first generated in its final form as an electronic record or otherwise.

b. Remains accessible for later reference.

2. A requirement to retain a record in accordance with subsection 1 does not apply to any information the sole purpose of which is to enable the record to be sent, communicated, or received.

3. A person may satisfy subsection 1 by using the services of another person if the requirements of that subsection are satisfied.

4. If a law requires a record to be presented or retained in its original form, or provides consequences if the record is not presented or retained in its original form, that law is satisfied by an electronic record retained in accordance with subsection 1.

5. If a law requires retention of a check, that requirement is satisfied by retention of an electronic record of the information on the front and back of the check in accordance with subsection 1.

6. A record retained as an electronic record in accordance with subsection 1 satisfies a law requiring a person to retain a record for evidentiary, audit, or like purposes, unless a law enacted after the effective date of this Act specifically prohibits the use of an electronic record for the specified purpose.

7. This section does not preclude a governmental agency from specifying additional requirements for the retention of a record subject to the agency's jurisdiction.

Sec. 15. NEW SECTION. 554D.114 ADMISSIBILITY IN EVIDENCE.

In a proceeding, evidence of a record or signature shall not be excluded solely because it is in electronic form.

Sec. 16. NEW SECTION. 554D.115 AUTOMATED TRANSACTION.

In an automated transaction, the following rules apply:

1. A contract may be formed by the interaction of electronic agents of the parties, even if no individual was aware of or reviewed the electronic agents' actions or the resulting terms and agreements.

2. A contract may be formed by the interaction of an electronic agent and an individual, acting on the individual's own behalf or for another person, including by an interaction in which the individual performs actions that the individual is free to refuse to perform and which the individual knows or has reason to know will cause the electronic agent to complete the transaction or performance.

3. The terms of the contract are determined by the substantive law applicable to it.

Sec. 17. NEW SECTION. 554D.116 TIME AND PLACE OF SENDING AND RECEIPT.

1. Unless otherwise agreed between the sender and the recipient, an electronic record is sent when all of the following occur:

a. The electronic record is addressed properly or otherwise directed properly to an information processing system that the recipient has designated or uses for the purpose of receiving electronic records or information of the type sent and from which the recipient is able to retrieve the electronic record.

b. The electronic record is in a form capable of being processed by that information processing system.

c. The electronic record enters an information processing system outside the control of the sender or of a person who sent the electronic record on behalf of the sender or enters a region of the information processing system designated or used by the recipient which is under the control of the recipient.

2. Unless otherwise agreed between a sender and the recipient, an electronic record is received when both of the following occur:

a. The electronic record enters an information processing system that the recipient has designated or uses for the purpose of receiving electronic records or information of the type sent and from which the recipient is able to retrieve the electronic record.

b. The electronic record is in a form capable of being processed by that information processing system.

3. Subsection 2 applies even if the place the information processing system is located is different from the place the electronic record is deemed to be received under subsection 4.

4. Unless otherwise expressly provided in the electronic record or agreed between the sender and the recipient, an electronic record is deemed to be sent from the sender's place of business and to be received at the recipient's place of business. For purposes of this subsection, both of the following apply:

a. If the sender or recipient has more than one place of business, the place of business of such person is the place having the closest relationship to the underlying transaction.

b. If the sender or the recipient does not have a place of business, the place of business is the sender's or recipient's residence, as the case may be.

5. An electronic record is received under subsection 2 even if no individual is aware of its receipt.

6. Receipt of an electronic acknowledgment from an information processing system described in subsection 2 establishes that a record was received but, by itself, does not establish that the content sent corresponds to the content received.

7. If a person is aware that an electronic record purportedly sent under subsection 1, or purportedly received under subsection 2, was not actually sent or received, the legal effect of the sending or receipt is determined by other applicable law. Except to the extent permitted or required by the other law, the requirements of this subsection shall not be varied by agreement.

Sec. 18. NEW SECTION. 554D.117 TRANSFERABLE RECORDS.

1. For purposes of this section, "transferable record" means an electronic record that satisfies both of the following:

a. The electronic record would be a note under chapter 554, article 3, or a document under chapter 554, article 7, if the electronic record were in writing.

b. The issuer of the electronic record expressly has agreed such electronic record is a transferable record.

2. A person has control of a transferable record if a system employed for evidencing the transfer of interests in the transferable record reliably establishes that person as the person to which the transferable record was issued or transferred.

3. A system satisfies subsection 2, and a person is deemed to have control of a transferable record, if the transferable record is created, stored, and assigned in such a manner that satisfies all of the following:

a. A single authoritative copy of the transferable record 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 one of the following:

(1) The person to which the transferable record was issued.

(2) If the authoritative copy indicates that the transferable record has been transferred, the person to which the transferable record was most recently transferred.

c. The authoritative copy is communicated to and maintained by the person asserting control or such person's designated custodian.

d. Copies or revisions 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.

f. A revision of the authoritative copy is readily identifiable as authorized or unauthorized.

4. Except as otherwise agreed, a person having control of a transferable record is the holder, as defined in section 554.1201, of the transferable record and has the same rights and defenses as a holder of an equivalent record or writing under chapter 554, including, if the applicable statutory requirements under section 554.3302, subsection 1, section 554.7501, or section 554.9308 are satisfied, the rights and defenses of a holder in due course, a holder to which a negotiable document of title has been duly negotiated, or a purchaser, respectively. Delivery, possession, and endorsement are not required to obtain or exercise any of the rights under this subsection.

5. Except as otherwise agreed, an obligor under a transferable record has the same rights and defenses as an equivalent obligor under equivalent records or writings under chapter 554.

6. If requested by a person against which enforcement is sought, the person seeking to enforce the transferable record shall provide reasonable proof that the person is in control of the transferable record. Proof may include access to the authoritative copy of the transferable record and related business records sufficient to review the terms of the transferable record and to establish the identity of the person having control of the transferable record.

Sec. 19. NEW SECTION. 554D.118 CREATION AND RETENTION OF ELECTRONIC RECORDS AND CONVERSION OF WRITTEN RECORDS BY GOVERNMENTAL AGENCIES.

A governmental agency of this state shall determine whether, and the extent to which, the governmental agency will create and retain electronic records and convert written records to electronic records.

Sec. 20. NEW SECTION. 554D.119 ACCEPTANCE AND DISTRIBUTION OF ELECTRONIC RECORDS BY GOVERNMENTAL AGENCIES.

1. Except as otherwise provided in section 554D.113, subsection 6, a governmental agency of this state other than a state executive branch agency, department, board, commission, authority, or institution, shall determine whether, and the extent to which, the governmental agency will send and accept electronic records and electronic signatures to and from other persons and otherwise create, generate, communicate, store, process, use, and rely upon electronic records and electronic signatures.

2. Except as otherwise provided in section 554D.113, subsection 6, on or before July 1, 2003, a state executive branch agency, department, board, commission, authority, or institution, in consultation and cooperation with the information technology services division of the department of general services, shall send and accept electronic records and electronic signatures to and from other persons and otherwise create, generate, communicate, store, process, use, and rely upon electronic records and signatures. The department of management, upon the written request of a state executive branch agency, department, board, commission, authority, or institution and for good cause shown, may grant a waiver from the July 1, 2003, deadline established in this section to the state executive branch agency, department, board, commission, authority, or institution.

3. To the extent that a governmental agency of this state uses electronic records and electronic signatures under subsection 1 or 2, the office of the secretary of state and the division of information technology services of the department of general services, jointly, and in consultation with the office of the attorney general, giving due consideration to security, may specify by rule all of the following:

a. The manner and format in which the electronic records must be created, generated, sent, communicated, received, and stored and the information processing systems established for those purposes.

b. If electronic records must be signed by electronic means, the type of electronic signature required, the manner and format in which the electronic signature must be affixed to the electronic record, and the identity of, or criteria that must be met by, any third party used by a person filing a document to facilitate the process.

c. Control processes and procedures as appropriate to ensure adequate preservation, disposition, integrity, security, confidentiality, and auditability of electronic records.

d. Any other required attributes for electronic records which are specified for corresponding nonelectronic records or reasonably necessary under the circumstances.

4. Except as otherwise provided in section 554D.113, subsection 6, this chapter does not require a governmental agency of this state to use or permit the use of electronic records or electronic signatures.

5. Notwithstanding this section, an institution governed under chapter 262 shall conform with national standards with respect to electronic records and electronic signatures, as such standards are developed.

Sec. 21. NEW SECTION. 554D.120 INTEROPERABILITY.

The standards adopted pursuant to section 554D.119 should encourage and promote consistency and interoperability with similar requirements adopted by another governmental agency and nongovernmental persons interacting with governmental agencies of this state. If appropriate, such standards may specify differing levels of standards from which a governmental agency of this state may choose in implementing the most appropriate standard for a particular application.

Sec. 22. NEW SECTION. 554D.121 FRAUDULENT PURPOSE — PENALTY.
A person shall not knowingly create, publish, alter, or otherwise use an electronic record or an electronic signature for a fraudulent or other unlawful purpose. A person convicted of violating this section is guilty of a serious misdemeanor. A person convicted of a second or subsequent violation of this section is guilty of a class "D" felony.

Sec. 23. NEW SECTION. 554D.122 FALSE OR UNAUTHORIZED REQUEST — PENALTY.
A person shall not knowingly misrepresent the person's identity or authorization to obtain a private key for use in a digital signature or in requesting suspension or revocation of a private key for use in a digital signature. "Private key" means the key of a key pair used to create a digital signature. A person convicted of violating this section is guilty of a serious misdemeanor. A person convicted of a second or subsequent violation of this section is guilty of a class "D" felony.

Sec. 24. Section 4.1, subsection 39, unnumbered paragraph 1, Code Supplement 1999, is amended to read as follows:
The words "written" and "in writing" may include any mode of representing words or letters in general use, and includes an electronic record as defined in section ~~554C.201~~ 554D.103. A signature, when required by law, must be made by the writing or markings of the person whose signature is required. "Signature" includes an electronic or digital signature as defined in section ~~554C.201~~ 554D.103. If a person is unable due to a physical disability to make a written signature or mark, that person may substitute either of the following in lieu of a signature required by law:

Sec. 25. Section 22.7, subsection 38, Code Supplement 1999, is amended to read as follows:
38. a. Records containing information that would disclose, or might lead to the disclosure of, private keys used in a digital signature or other similar technologies as provided in chapter ~~554C~~ 554D.
b. Records which if disclosed might jeopardize the security of ~~an issued certificate or a certificate to be issued~~ an electronic transaction pursuant to chapter ~~554C~~ 554D.

Sec. 26. NEW SECTION. 75.14 ELECTRONIC BIDDING.
Notwithstanding contrary provisions of this chapter, a public body authorized to issue bonds, notes, or other obligations may elect to receive bids to purchase such bonds, notes, or other obligations by means of electronic, internet or wireless communication, a proprietary bidding procedure or system, or by facsimile transmission to a location deemed appropriate by the governing body, in each instance as may be approved by the governing body and provided for in the notice of sale. An electronic bid shall be submitted in substantial conformity with the requirements of chapter 554D and any rules adopted pursuant to that chapter with respect to the acceptance of electronic records by a governmental agency. Additionally, before approving the use of an electronic bidding procedure, the public body shall find and determine that the specific procedure to be used will provide reasonable security and maintain the integrity of the competitive bidding process, and facilitate the delivery of bids by interested parties under the circumstances of the particular sale.

Sec. 27. ADVISORY COMMITTEE CREATED. An advisory committee is created to study issues associated with the electronic filing, recording, and indexing of instruments affecting real property pursuant to chapter 558, and the electronic use of real property disclosures required pursuant to chapter 558A. The advisory committee shall consider matters relating to the facilitation of electronic filing, recording, and indexing of instruments affecting real property. The advisory committee may consider matters including, but not limited to, access to electronic transactions, reliability and security, storage of records, training of public officials, conversion from a paper recording system to an electronic sys-

tem, and other issues as are necessary and appropriate with respect to establishing a statewide uniform electronic filing system for real property transactions. The membership of the advisory committee shall be appointed by the legislative council and shall include, but is not limited to, representatives of the Iowa county recorders association, the Iowa state bar association, the Iowa state association of counties, Iowa title guaranty, the Iowa land title association, the Iowa bankers association, the Iowa independent bankers association, the Iowa association of realtors, the Iowa mortgage bankers association, and the office of the attorney general. The advisory committee shall provide an initial written report, including any recommendations, to the general assembly by no later than January 20, 2001. Such report shall include a recommendation for the initiation of a pilot program for electronic land transfers, including a date certain by which such program may be initiated and the cost of such pilot program. The advisory committee shall provide a written report to the general assembly in January of each year subsequent to the commencement of the pilot program including the results of the pilot program; any additional recommendations; a schedule for the implementation of a statewide uniform electronic land transfer system, if appropriate; and the costs associated with such implementation including any identifiable ongoing costs and costs for training associated with the system.

Sec. 28. Section 421.60, subsection 2, Code 1999, is amended by adding the following new paragraph:

NEW PARAGRAPH. m. (1) The director may abate unpaid state sales and use taxes and local sales and services taxes owed by a retailer in the event that the retailer failed to collect tax from the purchaser as a result of erroneous written advice issued by the department that was specially directed to the retailer by the department and the retailer is unable to collect the tax, interest, or penalties from the purchaser. Before the tax, interest, and penalties shall be abated on the basis of erroneous written advice, the retailer must present a copy of the retailer's request for written advice to the department and a copy of the department's reply. The department shall not maintain a position against the retailer that is inconsistent with the erroneous written advice, except on the basis of subsequent written advice sent by the department to that retailer, or a change in state or federal law, a reported court case to the contrary, a contrary rule adopted by the department, a change in material facts or circumstances relating to the retailer, or the retailer's misrepresentation or incomplete or inadequate representation of material facts and circumstances in requesting the written advice.

(2) The director shall abate the unpaid state sales and use taxes and any local sales and services taxes owed by a retailer where the retailer failed to collect the tax from the purchaser on the charges paid for access to on-line computer services as a result of erroneous written advice issued by the department regarding the taxability of charges paid for access to on-line computer services. To qualify for the abatement under this subparagraph, the erroneous written advice shall have been issued by the department prior to July 1, 1999, and shall have been specially directed to the retailer by the department.

(3) The director shall prepare quarterly reports summarizing each case in which abatement of tax, interest, or penalties was made. However, the report shall not disclose the identity of the taxpayer. An abatement authorized by this paragraph to a retailer shall not preclude the department from proceeding to collect the liability from a purchaser.

Sec. 29. Section 422.45, subsection 56, Code Supplement 1999, is amended to read as follows:

56. The gross receipts 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.

Sec. 30. Section 422.52, subsection 6, paragraph a, Code Supplement 1999, is amended to read as follows:

a. If a purchaser fails to pay tax imposed by this division 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 422.50, 422.51, 422.52, 422.54, 422.55, 422.56, 422.57, 422.58, and 422.59 apply to the purchaser. For failure, the retailer and purchaser are liable, unless the circumstances described in section 421.60, subsection 2, paragraph "m", or section 422.47, subsection 3, paragraph "b" or "e", or subsection 4, paragraph "b" or "d", are applicable.

Sec. 31. Chapter 554C, Code Supplement 1999, is repealed.

Sec. 32. REPEAL — EFFECTIVE DATE.
1. Section 554D.104, subsection 4, as enacted in this Act, is amended by striking the subsection.
2. This section of this Act takes effect July 1, 2001.

Sec. 33. LEGISLATIVE INTENT. It is the intent of the general assembly that the general assembly consider the proposed uniform computer information transactions Act, as adopted by the national conference of commissioners on uniform state laws, during the 2001 regular session.

Sec. 34. EFFECTIVE DATE. Sections 28, 29, and 30 of this Act, being deemed of immediate importance, take effect upon enactment.

Approved May 15, 2000

CHAPTER 1190

RURAL IMPROVEMENT ZONES

H.F. 2541

AN ACT expanding the number of counties that may designate unincorporated areas containing private lakes as rural improvement zones and setting the limits for the standby taxes imposed in those zones.

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

Section 1. Section 357H.1, Code 1999, is amended to read as follows:
357H.1 RURAL IMPROVEMENT ZONES.
The board of supervisors of a county with less than ~~eleven~~ eighteen thousand five hundred residents ~~but more than ten thousand five hundred residents~~, based upon the 1990 certified federal census, and with a private lake development shall designate an area surrounding the lake, if it is an unincorporated area of the county, a rural improvement zone upon receipt of a petition pursuant to section 357H.2, and upon the board's determination that the area is in need of improvements. For purposes of this chapter, "improvements" means dredging, installation of erosion control measures, land acquisition, and related improvements, including soil conservation practices, within or outside of the boundaries of the zone.
For purposes of this chapter, "board" means the board of supervisors of the county.

Sec. 2. Section 357H.8, subsection 4, Code 1999, is amended to read as follows:
4. To further secure the payment of the certificates, the board of trustees shall, by resolution, provide for the assessment of an annual levy of a standby tax upon all taxable property

within the rural improvement zone. The rate of the standby tax shall be not less than fifty cents per thousand dollars of the assessed value of the taxable property and not more than two dollars and fifty cents per thousand dollars of the assessed value of the taxable property. A copy of the resolution shall be sent to the county auditor. The revenues from the standby tax shall be deposited in a special fund and shall be expended only for the payment of principal of and interest on the certificates issued as provided in this section, when the receipt of tax revenues pursuant to section 357H.9 is insufficient. If payments are necessary and made from the special fund, the amount of the payments shall be promptly repaid into the special fund from the first available payments received which are not required for the payment of principal of or interest on certificates due. No reserves may be built up in the special fund in anticipation of a projected default. The board of trustees shall adjust the annual standby tax levy for each year to reflect the amount of revenues in the special fund and the amount of principal and interest which is due in that year.

Approved May 15, 2000

CHAPTER 1191

UNCLAIMED PROPERTY

H.F. 2557

AN ACT relating to the state's disposition of unclaimed property law by setting a limit on the retention of abandoned property records and requiring the filing of rules setting requirements and conditions for hiring independent auditors.

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

Section 1. Section 556.11, Code 1999, is amended by adding the following new subsection:

NEW SUBSECTION. 8. a. A holder required to file a report under this section shall maintain its records containing the information required to be included in the report until the holder files the report and for four years after the date of filing, unless a shorter time is provided in paragraph "b" or by rule of the treasurer of state.

b. A business association that sells, issues, or provides to others for sale or issue in this state, travelers checks, money orders, or similar written instruments other than third-party bank checks, on which the business association is directly liable, shall maintain a record of the instruments while they remain outstanding, indicating the state and date of issue, for four years after the date of filing.

Sec. 2. The treasurer of state shall give notice of intended action, as required in section 17A.4, by December 31, 2000, to adopt rules providing for the conditions and requirements for entering into a contract with an independent auditor to conduct the examination allowed under section 556.23 on behalf of the treasurer. The proposed rules shall, at a minimum, contain the procedures and conduct of the independent auditor in making the examination, the method for payment, the requirement for confidentiality, procedures for appeals by the person whose records are examined, and conflict of issue provisions.

Approved May 15, 2000

CHAPTER 1192

TOBACCO USE PREVENTION AND CONTROL

H.F. 2565

AN ACT relating to tobacco use prevention and control and providing an effective date.

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

Section 1. NEW SECTION. 142A.1 TOBACCO USE PREVENTION AND CONTROL PARTNERSHIP — PURPOSE AND INTENT.

1. The purpose of this chapter is to establish a comprehensive partnership among the general assembly, the executive branch, communities, and the people of Iowa in addressing the prevalence of tobacco use in the state.

2. It is the intent of the general assembly that the comprehensive tobacco use prevention and control initiative established in this chapter will specifically address reduction of tobacco use by youth and pregnant women, promotion of compliance by minors and retailers with tobacco sales laws and ordinances, and enhancement of the capacity of youth to make healthy choices. The initiative shall allow extensive involvement of youth in attaining these results.

3. It is also the intent of the general assembly that the comprehensive tobacco use prevention and control initiative will foster a social and legal climate in which tobacco use becomes undesirable and unacceptable, in which role models and those who influence youth promote healthy social norms and demonstrate behavior that counteracts the glamorization of tobacco use, and in which tobacco becomes less accessible to youth. The intent of the general assembly shall be accomplished by engaging all who are affected by the use of tobacco in the state, including smokers and nonsmokers, youth, and adults.

Sec. 2. NEW SECTION. 142A.2 DEFINITIONS.

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

1. "Administrator" means the administrator of the division of tobacco use prevention and control.

2. "Commission" means the commission on tobacco use prevention and control established in this chapter.

3. "Community partnership" means a public agency or nonprofit organization implementing the tobacco use prevention and control initiative in a local area in accordance with this chapter.

4. "Department" means the Iowa department of public health.

5. "Director" means the director of public health.

6. "Division" means the division of tobacco use prevention and control of the Iowa department of public health, established pursuant to this chapter.

7. "Initiative" means the comprehensive tobacco use prevention and control initiative established in this chapter.

8. "Manufacturer" means manufacturer as defined in section 453A.1.

9. "Pregnant woman" means a female of any age who is pregnant.

10. "Retailer" means retailer as defined in section 453A.1.

11. "School-age youth" means a person attending school in kindergarten through grade twelve.

12. "Tobacco" means both cigarettes and tobacco products as defined in section 453A.1.

13. "Youth" means a person who is five through twenty-four years of age.

Sec. 3. NEW SECTION. 142A.3 TOBACCO USE PREVENTION AND CONTROL — DIVISION — COMMISSION — CREATED.

1. The department shall establish, as a separate and distinct division within the department, a division of tobacco use prevention and control. The division shall develop, imple-

ment, and administer the initiative established in this chapter and shall perform other duties as directed by this chapter or as assigned by the director of public health.

2. A commission on tobacco use prevention and control is established to develop policy, provide direction for the initiative, and perform all other duties as directed by this chapter or referred to the commission by the director of public health.

3. The commission shall consist of the following voting members who shall serve three-year, staggered terms:

a. Three members who are active with nonprofit health organizations that emphasize tobacco use prevention or who are active as health services providers, at the local level.

b. One member who is a retailer.

c. Three members who are active with health promotion activities at the local level in youth education, law enforcement, nonprofit services, or other activities relating to tobacco use prevention and control.

The members appointed under this subsection shall be appointed by the governor, subject to confirmation by the senate, pursuant to sections 2.32 and 69.19. At least one member appointed under this subsection shall be a member of a racial minority.

4. In addition to the members described in subsection 3, the membership of the commission shall include three voting members who are selected by the participants in the annual statewide youth summit of the initiative's youth program. The youth membership appointments are not subject to section 69.16 or 69.16A. However, the selection process shall provide for diversity among the members and at least one of the youth members shall be a female. These members shall also serve three-year staggered terms.

5. The commission shall also include the following ex officio, nonvoting members:

a. Four members of the general assembly, with not more than one member from each chamber being from the same political party. The majority leader of the senate and the minority leader of the senate shall each appoint one of the senate members. The majority leader of the house and the minority leader of the house of representatives shall each appoint one of the house members.

b. The presiding officer of the statewide youth executive body, selected by the delegates to the statewide youth summit.

6. In addition to the members of the council, the following agencies, organizations, and persons shall each assign a single liaison to the commission to provide assistance to the commission in the discharge of the commission's duties:

a. The department of education.

b. The drug policy coordinator.

c. The department of justice, office of the attorney general.

d. The department of human services.

e. The alcoholic beverages division of the department of commerce.

7. Citizen members shall be reimbursed for actual and necessary expenses incurred in performance of their duties. Citizen members shall be paid a per diem as specified in section 7E.6. Legislative members are eligible for per diem and expenses as provided in section 2.10.

8. A member of the commission who is convicted of a crime relating to tobacco, alcohol, or controlled substances is subject to removal from the commission.

9. The commission may designate an advisory council. The commission shall determine the membership and representation of the advisory council and members of the council shall serve at the pleasure of the commission. The advisory council may include representatives of health care provider groups, parent groups, antitobacco advocacy programs and organizations, tobacco retailers, research and evaluation experts, and youth organizers.

10. A vacancy on the commission other than for the youth members shall be filled in the same manner as the original appointment for the balance of the unexpired term. A youth member vacancy shall be filled by the presiding officer of the statewide executive body as selected by the delegates to the statewide youth summit. The commission shall elect a chairperson from among its voting members and may select other officers from among its

voting members, as determined necessary by the commission. The commission shall meet regularly as determined by the commission, upon the call of the chairperson, or upon the call of a majority of the voting members.

Sec. 4. NEW SECTION. 142A.4 COMMISSION DUTIES.

The commission shall do all of the following:

1. Develop and implement the comprehensive tobacco use prevention and control initiative as provided in this chapter.

2. Provide a forum for the discussion, development, and recommendation of public policy alternatives in the field of tobacco use prevention and control.

3. Develop an educational component of the initiative. Educational efforts provided through the school system shall be developed in conjunction with the department of education.

4. Develop a plan for implementation of the initiative in accordance with the purpose and intent specified in section 142A.1.

5. Provide for technical assistance, training, and other support under the initiative.

6. Take actions to develop and implement a statewide system for the initiative programs that are delivered through community partnerships.

7. Manage and coordinate the provision of funding and other moneys available to the initiative by combining all or portions of appropriations or other revenues as authorized by law.

8. Assist with the linkage of the initiative with child welfare and juvenile justice decategorization projects, education programming, community empowerment areas, and other programs and services directed to youth at the state and community level.

9. Coordinate and respond to any requests from a community partnership relating to any of the following:

a. Removal of barriers to community partnership efforts.

b. Pooling and redirecting of existing federal, state, or other public or private funds available for purposes that are consistent with the initiative.

c. Seeking of federal waivers to assist community partnership efforts.

In coordinating and responding to the requests, the commission shall work with state agencies, the governor, and the general assembly as necessary to address requests deemed appropriate by the commission.

10. Adopt rules pursuant to chapter 17A as necessary for the designation, governance, and oversight of the initiative and the implementation of this chapter. The commission shall provide for community partnership and youth program input in the rules adoption process. The rules shall include but are not limited to all of the following:

a. Performance indicators for initiative programs, community partnerships, and the services provided under the auspices of community partnerships. The performance indicators shall be developed with input from communities.

b. Minimum standards to further the provision of equal access to services.

11. Monitor and evaluate the effectiveness of performance measures utilized under the initiative.

12. Submit a report to the governor and the general assembly on a periodic basis, during the initial year of operation, and on an annual basis thereafter, regarding the initiative, including demonstrated progress based on performance indicators. The commission shall report more frequently if requested by the joint appropriations subcommittee that makes recommendations concerning the commission's budget. Beginning July 1, 2005, the commission shall also perform a comprehensive review of the initiative and shall submit a report of its findings to the governor and the general assembly on or before December 15, 2005.

13. Approve contracts entered into with the alcoholic beverages division of the department of commerce, to provide for enforcement of tobacco laws and regulations.

14. Advise the director in evaluating potential candidates for the position of administrator, consult with the director in the hiring of the administrator, and review and advise the director on the performance of the administrator in the discharge of the administrator's duties.

15. Prioritize funding needs and the allocation of moneys appropriated and other resources available for the programs and activities of the initiative.

16. Ensure that sufficient resources are available to promote and ensure retailer compliance with tobacco laws and ordinances relating to minors and ensure that compliance with 42 U.S.C. § 300X-26 is prioritized when allocating funds under this chapter.

17. Review fiscal needs of the initiative and make recommendations to the director in the development of budget requests.

18. Solicit and accept any gift of money or property, including any grant of money, services, or property from the federal government, the state, a political subdivision, or a private source that is consistent with the goals of the initiative. The commission shall adopt rules prohibiting the acceptance of gifts from a manufacturer of tobacco products.

19. Advise and make recommendations to the governor, the general assembly, the director, and the administrator, relative to tobacco use, treatment, intervention, prevention, control, and education programs in the state.

20. Evaluate the work of the division and the department relating to the initiative. For this purpose, the commission shall have access to any relevant department records and documents, and other information reasonably obtainable by the department.

21. Develop the structure for the statewide youth summit to be held annually.

Sec. 5. NEW SECTION. 142A.5 DIRECTOR AND ADMINISTRATOR DUTIES.

1. The director shall do all of the following:

a. Establish and maintain the division of tobacco use prevention and control.

b. Employ a division administrator who shall be responsible for the administration and oversight of the division. The division administrator shall report to and shall serve at the pleasure of the director. The administrator shall be exempt from the merit system provisions of chapter 19A.

c. Coordinate all tobacco use prevention and control programs and activities under the purview of the department.

d. Receive and review budget recommendations from the commission. The director shall consider these recommendations in developing the budget request for the department.

e. Enter into contracts with the alcoholic beverages division of the department of commerce, to provide enforcement of tobacco laws and regulations. Such contracts shall require that enforcement efforts include training of local authorities who issue retailer permits and education of retailers.

2. The administrator shall do all of the following:

a. Implement the initiative, coordinate the activities of the commission and the initiative, and coordinate other tobacco use prevention and control activities as assigned by the director.

b. Monitor and evaluate the effectiveness of performance measures.

c. Provide staff and administrative support to the commission.

d. Administer contracts entered into under this chapter.

e. Coordinate and cooperate with other tobacco use prevention and control programs within and outside of the state.

f. Coordinate the efforts of the division with tobacco law enforcement programs funded through the commission.

Sec. 6. NEW SECTION. 142A.6 COMPREHENSIVE TOBACCO USE PREVENTION AND CONTROL INITIATIVE ESTABLISHED — PURPOSE — RESULTS.

1. A comprehensive tobacco use prevention and control initiative is established. The division shall implement the initiative as provided in this chapter.

2. The purpose of the initiative is to attain the following results:

a. Reduction of tobacco use by youth.

b. Strong, active youth involvement in activities to prevent youth tobacco use and to promote cessation of youth tobacco use.

c. Enhanced capacity of youth to make healthy choices.

d. Reduction of tobacco use by pregnant women.

e. Increased compliance by minors and retailers with tobacco sales laws and ordinances.

3. Success in achieving the initiative's desired results may be demonstrated by a minimum of the following:

a. Data demonstrating consistent progress in reducing the prevalence of tobacco use among youth and adults.

b. Survey results indicating widespread support among youth for the initiative's tobacco use prevention and control activities; for programs that enhance the ability of youth to make healthy choices including those related to use of tobacco, alcohol, and other substances; and for the media, marketing, and communications efforts supporting the initiative's desired results. Any survey conducted may also include an assessment of the effectiveness of tobacco use prevention and control activities in affecting other unhealthy youth behaviors including sexual activity and violent behavior.

c. Data demonstrating increased compliance by minors and retailers with tobacco sales laws and ordinances.

4. The division shall implement the initiative in a manner that ensures that youth are extensively involved in the decision making for the programs implemented under the initiative. The initiative shall also involve parents, schools, and community members in activities to achieve the results desired for the initiative. The division shall encourage collaboration at the state and local levels to maximize available resources and to provide flexibility to support community efforts.

5. Procurement of goods and services necessary to implement the initiative is subject to approval of the commission. Notwithstanding chapter 18 or any other provision of law to the contrary, such procurement may be accomplished by the commission under its own competitive bidding process which shall provide for consideration of such factors as price, bidder competence, and expediency in procurement.

6. In order to promote the tobacco use prevention and control partnership established in section 142A.1, the following persons shall comply with the following, as applicable:

a. A manufacturer, distributor, wholesaler, retailer, or distributing agent or agent thereof shall not give away cigarettes or tobacco products.

b. A manufacturer, distributor, wholesaler, retailer, or distributing agent or agent thereof shall not provide free articles, products, commodities, gifts, or concessions in any exchange for the purchase of cigarettes or tobacco products.

c. The prohibitions in this section do not apply to transactions between manufacturers, distributors, wholesalers, or retailers.

d. For the purpose of this subsection, manufacturer, distributor, wholesaler, retailer, and distributing agent mean as defined in section 453A.1.

Sec. 7. NEW SECTION. 142A.7 INITIATIVE COMPONENTS.

1. The initiative shall include but is not limited to all of the following:

a. Youth programs, designed to achieve the initiative's desired results, that are directed by youth participants for youth.

b. A media, marketing, and communications program to achieve the initiative's desired results. Advertising shall not include the name, voice, or likeness of any elected or appointed public official or of any candidate for elective office.

c. Independent evaluation of each component of the statewide initiative.

d. Ongoing statewide assessment of data, review of indicators used in assessing the effectiveness of the initiative, and evaluation of the initiative, its programs, and its marketing strategy. The initial baseline used to measure the effectiveness of the initiative shall be developed using existing, available indicators. Following development of the initial baseline, indicators of the effectiveness of the initiative shall be reviewed on at least an annual basis to ensure that the indicators used most accurately provide for measurement of such effective-

ness. Primary emphasis in data assessment shall be on data relating to tobacco usage and may include data demonstrating the prevalence of tobacco use among youth and pregnant women, and the prevalence of the use of alcohol and other substances among youth. Sources of data considered shall include but are not limited to the centers for disease control and prevention of the United States department of health and human services and the Iowa youth tobacco survey, and may include the Iowa youth risk survey conducted by the department or the youth risk behavior survey.

e. A tobacco use prevention and control education program.

f. An enforcement program.

2. Administrative costs associated with each program of the initiative and program provider shall be established at a reasonable level consistent with effective management practices.

3. Requests for information or for proposals shall emphasize that performance measures are required for any contract or allocation of funding under the initiative.

Sec. 8. NEW SECTION. 142A.8 COMMUNITY PARTNERSHIPS.

1. A community partnership is a public agency or nonprofit organization operating in a local area under contract with the department to implement the initiative in that local area utilizing broad community involvement. The community partnership or its designee shall act as the fiscal agent for moneys administered by the community partnership.

2. A community partnership area shall encompass a county or multicounty area, school district or multischool district area, economic development enterprise zone that meets the requirements of an urban or rural enterprise community under Title XIII of the federal Omnibus Budget Reconciliation Act of 1993, or community empowerment area, in accordance with criteria adopted by the commission for appropriate population levels and size of geographic areas.

3. The commission shall adopt rules pursuant to chapter 17A providing procedures for the initial designation of community partnership areas and for subsequent changes to the initially designated areas.

4. The requirements for contracts entered into by a community partnership and the department shall include but are not limited to all of the following:

a. Administrative functions.

b. Fiscal provisions.

c. Community and youth involvement in program and administrative decisions.

d. Law enforcement involvement.

e. Evaluation of the program.

Sec. 9. NEW SECTION. 142A.9 YOUTH PROGRAM.

1. A youth program component shall be implemented in each community partnership area to achieve the purposes of the initiative.

2. The youth program shall include but is not limited to all of the following:

a. A structure for program participants to interact with other participating youth within the community partnership area and in other areas of the state.

b. A structure for formal youth involvement in youth program governance at the community partnership area level and in a statewide youth summit or summits consisting of participation by representatives of the community partnership area level.

c. A structure for participation in a statewide executive body consisting of participants selected by the delegates to the statewide youth summit of the youth program.

d. Youth activities that are character-based and focused on rewarding appropriate values, behavior, and healthy choices by participants.

3. To the greatest extent possible, the youth program shall be directed by youth for youth participants. State and local administrators associated with the initiative shall consult with and utilize the youth program participants in the media, marketing, and communications program; education efforts; and other aspects of the initiative including evaluation, collaboration, and enforcement.

Sec. 10. NEW SECTION. 142A.10 FUNDING OF PROGRAMS DELIVERED THROUGH COMMUNITY PARTNERSHIPS.

1. The commission shall develop and implement a statewide system for the initiative programs that are delivered through community partnerships.

2. The system shall provide for equitable allocation of funding for initiative programs among the state's community partnership areas, based upon school-age population and other criteria established by the commission.

3. The specific programs, distribution provisions, and other provisions approved by the commission for expenditure of the maximum allocation amount established for a community partnership area shall be outlined in the written contract with the community partnership.

4. Any allocation received by a community partnership shall be matched with local funding, in-kind services, office support, or other tangible support or offset of costs.

Sec. 11. NEW SECTION. 142A.11 REPEAL.

This chapter is repealed June 30, 2010.

Sec. 12. Section 453A.39, Code 1999, is repealed.

Sec. 13. INITIAL APPOINTMENTS.

1. The initial appointments to the commission on tobacco use prevention and control of the members who are not youth members selected at the youth summit or who are not commission nonvoting members, as established by this Act, are as follows:

a. Two members to a one-year term.

b. Two members to a two-year term.

c. Three members to a three-year term.

2. The initial youth appointments shall be as follows:

a. One member to a one-year term.

b. One member to a two-year term.

c. One member to a three-year term.

3. The initial appointments to the commission on tobacco use prevention and control who are not youth members selected at the annual youth summit or who are not commission nonvoting members shall be made by the governor. The legislative council may compile a list of individuals based on recommendations received from members of the general assembly, following public input, and submit the list to the governor to assist efforts in identifying qualified and capable candidates for initial appointments.

4. The initial appointments to the commission shall be made within sixty days of the effective date of this Act.

Sec. 14. REVIEW OF ENFORCEMENT EFFORTS. The tobacco use prevention and control commission created under chapter 142A, in cooperation with the office of the attorney general, the Iowa department of public health, and the alcoholic beverages division of the department of commerce, shall review current state and local tobacco enforcement regulations and activities, including those related to retailers, clerks and minors, and shall submit recommendations to the governor and the general assembly, on or before December 1, 2000, to provide for balanced and uniform enforcement statewide.

Sec. 15. ADMINISTRATOR — INITIAL HIRING. The provisions of section 142A.4 relating to the commission providing advice and consultation with regard to the hiring of the administrator do not apply to the initial hiring of an administrator if the commission is not operational at the time that a potential candidate for the position of administrator is formally offered the administrator position. However, under such circumstances, the director shall consult with the ex officio members of the commission, if appointed at the time such a formal offer is extended.

Sec. 16. EMERGENCY RULES. The department of public health may adopt emergency rules under section 17A.4, subsection 2, and section 17A.5, subsection 2, paragraph "b", to implement this Act, and the rules shall become effective immediately upon filing, unless the effective date is delayed by the administrative rules review committee, notwithstanding section 17A.4, subsection 5, and section 17A.8, subsection 9, or a later effective date is specified in the rules. Any rules adopted in accordance with this section shall not take effect before the rules are reviewed by the administrative rules review committee. 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. 17. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved May 15, 2000

CHAPTER 1193

INSURANCE COVERAGE OF ANESTHESIA AND HOSPITAL CHARGES FOR DENTAL CARE

H.F. 754

AN ACT relating to individual and group accident and sickness insurance, nonprofit health service plans, and health maintenance organizations, by mandating coverage for anesthesia and certain hospital charges associated with the provision of dental care services.

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

Section 1. NEW SECTION. 514C.19 MANDATED COVERAGE FOR DENTAL CARE — ANESTHESIA AND CERTAIN HOSPITAL CHARGES.

1. Notwithstanding section 514C.6, and subject to the terms and conditions of the policy or contract, a policy or contract providing for third-party payment or prepayment of health or medical expenses shall provide coverage for the administration of general anesthesia and hospital or ambulatory surgical center charges related to the provision of dental care services provided to any of the following covered individuals:

a. A child under five years of age upon a determination by a licensed dentist and the child's treating physician licensed pursuant to chapter 148, 150, or 150A, that such child requires necessary dental treatment in a hospital or ambulatory surgical center due to a dental condition or a developmental disability for which patient management in the dental office has proved to be ineffective.

b. Any individual upon a determination by a licensed dentist and the individual's treating physician licensed pursuant to chapter 148, 150, or 150A, that such individual has one or more medical conditions that would create significant or undue medical risk for the individual in the course of delivery of any necessary dental treatment or surgery if not rendered in a hospital or ambulatory surgical center.

2. Prior authorization of hospitalization or ambulatory surgical center for dental care procedures may be required in the same manner that prior authorization is required for hospitalization for other coverages under the contract or policy.

3. This section applies to the following classes of third-party payment provider contracts or policies delivered, issued for delivery, continued, or renewed in this state on or after July 1, 2000:

a. Individual or group accident and sickness insurance providing coverage on an expense-incurred basis.

b. An individual or group hospital or medical service contract issued pursuant to chapter 509, 514, or 514A.

c. An individual or group health maintenance organization contract regulated under chapter 514B.

d. Any other entity engaged in the business of insurance, risk transfer, or risk retention, which is subject to the jurisdiction of the commissioner.

e. A plan established pursuant to chapter 509A for public employees.

f. An organized delivery system licensed by the director of public health.

4. This section shall not apply to accident only, specified disease, short-term hospital or medical, hospital confinement indemnity, credit, dental, vision, Medicare supplement, long-term care, basic hospital and medical-surgical expense coverage as defined by the commissioner, disability income insurance coverage, coverage issued as a supplement to liability insurance, workers' compensation or similar insurance, or automobile medical payment insurance.

Approved May 16, 2000

CHAPTER 1194

INCOME AND PROPERTY TAXES — CREDITS, DEDUCTIONS, AND EXEMPTIONS

H.F. 2560

† **AN ACT** providing an individual and corporate income tax credit for the rehabilitation of certain eligible commercial and residential property and barns, an alternative method for computing the individual and corporate income tax credit for increasing research and development, an assistive device tax credit under the individual and corporate taxes for assisting persons with a disability in the workplace, and an increase in the deduction for pension and retirement income for income tax purposes, and a property tax exemption for increasing the value of certain barns as a result of the rehabilitation of the barns, and a property tax exemption for increasing the value of one-room schoolhouses as a result of the rehabilitation of the one-room schoolhouses, and including applicability dates.

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

Section 1. Section 15.335, Code Supplement 1999, is amended to read as follows:

15.335 RESEARCH ACTIVITIES CREDIT.

1. An eligible business may claim a corporate tax credit for increasing research activities in this state during the period the eligible business is participating in the program.

a. The credit equals ~~six and one-half percent of the state's apportioned share of the qualifying expenditures for increasing research activities.~~ the sum of the following:

(1) Six and one-half percent of the excess of qualified research expenses during the tax year over the base amount for the tax year based upon the state's apportioned share of the qualifying expenditures for increasing research activities.

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

(2) Six and one-half percent of the basic research payments determined under section 41(e)(1)(A) of the Internal Revenue Code during the tax year based upon the state's apportioned share of the qualifying expenditures for increasing research activities.

The state's apportioned share of the qualifying expenditures for increasing research activities is a percent equal to the ratio of qualified research expenditures in this state to total qualified research expenditures.

b. In lieu of the credit amount computed in paragraph "a", subparagraph (1), an eligible business may elect to compute the credit amount for qualified research expenses incurred in this state in a manner consistent with the alternative incremental credit described in section 41(c)(4) of the Internal Revenue Code. The taxpayer may make this election regardless of the method used for the taxpayer's federal income tax. The election made under this paragraph is for the tax year and the taxpayer may use another or the same method for any subsequent year.

c. For purposes of the alternate credit computation method in paragraph "b", the credit percentages applicable to qualified research expenses described in clauses (i), (ii), and (iii) of section 41(c)(4)(A) of the Internal Revenue Code are one and sixty-five hundredths percent, two and twenty hundredths percent, and two and seventy-five hundredths percent, respectively.

2. The credit allowed in this section is in addition to the credit authorized in section 422.33, subsection 5, and section 422.10. However, if the alternative credit computation method is used in section 422.33, subsection 5, or section 422.10, the credit allowed in this section shall also be computed using that method.

3. If the eligible business is a partnership, ~~subchapter~~ S corporation, limited liability company, or estate or trust electing to have the income taxed directly to the individual, an individual may claim the tax credit allowed. The amount claimed by the individual shall be based upon the pro rata share of the individual's earnings of the partnership, ~~subchapter~~ S corporation, limited liability company, or estate or trust.

4. For purposes of this section, ~~"qualifying expenditures for increasing research activities" means the qualifying expenditures~~ "base amount", "basic research payment", and "qualified research expense" mean the same as defined for the federal credit for increasing research activities ~~which would be allowable~~ under section 41 of the Internal Revenue Code ~~in effect on January 1, 1999~~, except that for the alternative incremental credit such amounts are for research conducted within this state. For purposes of this section, "Internal Revenue Code" means the Internal Revenue Code in effect on January 1, 2000.

5. Any credit in excess of the tax liability for the taxable year shall be refunded with interest computed under section 422.25. In lieu of claiming a refund, a taxpayer may elect to have the overpayment shown on its final, completed return credited to the tax liability for the following year.

Sec. 2. Section 15A.9, subsection 8, Code Supplement 1999, is amended to read as follows:

8. CORPORATE TAX RESEARCH CREDIT. A corporate tax credit shall be available to the primary business or a supporting business for increasing research activities in this state within the zone.

a. The credit equals ~~thirteen percent of the state's apportioned share of the qualifying expenditures for increasing research activities.~~ the sum of the following:

(1) Thirteen percent of the excess of qualified research expenses during the tax year over the base amount for the tax year based upon the state's apportioned share of the qualifying expenditures for increasing research activities.

(2) Thirteen percent of the basic research payments determined under section 41(e)(1)(A) of the Internal Revenue Code during the tax year based upon the state's apportioned share of the qualifying expenditures for increasing research activities.

The state's apportioned share of the qualifying expenditures for increasing research activities is a percent equal to the ratio of qualified research expenditures in this state within the zone to total qualified research expenditures.

b. In lieu of the credit amount computed in paragraph "a", subparagraph (1), a business may elect to compute the credit amount for qualified research expenses incurred in this state within the zone in a manner consistent with the alternative incremental credit described in section 41(c)(4) of the Internal Revenue Code. The taxpayer may make this election regardless of the method used for the taxpayer's federal income tax. The election made under this paragraph is for the tax year and the taxpayer may use another or the same method for any subsequent year.

c. For purposes of the alternate credit computation method in paragraph "b", the credit percentages applicable to qualified research expenses described in clauses (i), (ii), and (iii) of section 41(c)(4)(A) of the Internal Revenue Code are three and thirty hundredths percent, four and forty hundredths percent, and five and fifty hundredths percent, respectively.

d. Any credit in excess of the tax liability for the tax year shall be refunded with interest computed under section 422.25. In lieu of claiming a refund, the primary business or a supporting business may elect to have the overpayment shown on its final return credited to its tax liability for the following tax year.

e. For the purposes of this ~~section, "qualifying expenditures for increasing research activities" means the qualifying expenditures~~ subsection, "base amount", "basic research payment", and "qualified research expense" mean the same as defined for the federal credit for increasing research activities ~~which would be allowable~~ under section 41 of the Internal Revenue Code ~~in effect on January 1, 1999~~, except that for the alternative incremental credit such amounts are for research conducted within this state within the zone. For purposes of this subsection, "Internal Revenue Code" means the Internal Revenue Code in effect on January 1, 2000.

f. The credit authorized in this subsection is in lieu of the credit authorized in section 422.33, subsection 5 and section 422.10.

Sec. 3. NEW SECTION. 404A.1 PROPERTY REHABILITATION TAX CREDIT — ELIGIBLE PROPERTY.

1. A property rehabilitation tax credit, subject to the availability of the credit, is granted against the income tax imposed under chapter 422, division II or division III, for the rehabilitation of eligible property located in this state as provided in this chapter. Tax credits in excess of tax liabilities shall be refunded as provided in section 404A.4, subsection 3.

2. Eligible property for which a taxpayer may receive the property rehabilitation tax credit computed under this chapter includes all of the following:

a. Property listed on the national register of historic places or is eligible for such listing.

b. Property designated as of historic significance to a district listed in the national register of historic places or is eligible for such designation.

c. Property or district designated a local landmark by a city or county ordinance.

d. A barn constructed prior to 1937.

Sec. 4. NEW SECTION. 404A.2 AMOUNT OF CREDIT.

The amount of the credit equals twenty-five percent of the qualified rehabilitation costs made to eligible property. In the case of commercial property, rehabilitation costs must equal at least fifty percent of the assessed value of the property, excluding the land, prior to the rehabilitation. In the case of residential property or barns, the rehabilitation costs must equal at least twenty-five thousand dollars or twenty-five percent of the fair market value, excluding the land, prior to the rehabilitation, whichever is less. In computing the tax credit for eligible property that is classified as residential or as commercial with multifamily residential units, the rehabilitation costs used shall not exceed one hundred thousand dollars per residential unit. In computing the tax credit, the only costs which may be included are the rehabilitation costs incurred between the period ending on the project completion date and beginning on the later of either the date of issuance of the approval of the project as provided in section 404A.3 or two years prior to the project completion date.

For purposes of this chapter, qualified rehabilitation costs include amounts if they are properly includable in computing the basis for tax purposes of the eligible property. Amounts

treated as an expense and deducted in the tax year in which they are paid or incurred and amounts that are otherwise not added to the basis for tax purposes of the eligible property are not qualified rehabilitation costs. Amounts incurred for architectural and engineering fees, site survey fees, legal expenses, insurance premiums, development fees, and other construction-related costs are qualified rehabilitation costs to the extent they are added to the basis for tax purposes of the eligible property. Costs of sidewalks, parking lots, and landscaping do not constitute qualified rehabilitation costs.

Any rehabilitation costs used in the computation of the tax credit under this chapter shall not be deductible for purposes of individual and corporate income taxes.

Sec. 5. NEW SECTION. 404A.3 APPROVAL OF REHABILITATION PROJECT.

1. a. In order for costs of a rehabilitation project to qualify for a tax credit, the rehabilitation project must receive approval from the state historical preservation office[1] of the department of cultural affairs.

b. Applications for approvals from the state historical preservation office of the department of cultural affairs shall be on forms approved by the state historical preservation office and shall contain information as required by the state historical preservation office. The information shall at least include the approximate date of the start of rehabilitation, the approximate date of completion, as well as the cost.

c. The approval process shall not exceed ninety days beginning from the date the rehabilitation project is submitted. After the ninety-day limit, the rehabilitation project is deemed to be approved.

2. The state historical preservation office shall establish selection criteria and standards for rehabilitation projects involving eligible property. The main emphasis of the standards shall be to ensure that a rehabilitation project maintains the integrity of the eligible property. To the extent applicable, the standards shall be consistent with the standards of the United States secretary of the interior for rehabilitation of eligible property that is listed on the national register of historic places or is designated as of historic significance to a district listed in the national register of historic places or shall be consistent with standards for issuance of certificates of appropriation[2] under sections 303.27 through 303.32.

The selection standards shall provide that a person who qualifies for the rehabilitation tax credit under section 47 of the Internal Revenue Code shall automatically qualify for the state property rehabilitation tax credit under this chapter.

Sec. 6. NEW SECTION. 404A.4 PROJECT COMPLETION AND TAX CREDIT CERTIFICATION — CREDIT REFUND.

1. Upon completion of the rehabilitation project, a certification of completion must be obtained from the state historical preservation office[3] of the department of cultural affairs. A completion certificate shall identify the person claiming the tax credit under this chapter and the rehabilitation costs incurred up to the two years preceding the completion date.

2. After verifying the eligibility for the tax credit, the state historical preservation office, in consultation with the department of economic development, shall issue a property rehabilitation tax credit certificate to be attached to the person's tax return. The tax credit certificate shall contain the taxpayer's name, address, tax identification number, the date of project completion, the amount of credit, and other information required by the department of revenue and finance.

3. A person receiving a property rehabilitation 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 and finance, 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.

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[1] State historic preservation office probably intended
[2] Certificates of "appropriateness" probably intended
[3] State historic preservation office probably intended

4. The total amount of tax credits that may be approved for a fiscal year under this chapter shall not exceed two million four hundred thousand dollars. Tax credit certificates shall be issued on the basis of the earliest awarding of certifications of completion as provided in subsection 1. The departments of economic development and revenue and finance shall each adopt rules to jointly administer this subsection and shall provide by rule for the method to be used to determine for which fiscal year the tax credits are approved.

Sec. 7. NEW SECTION. 404A.5 ECONOMIC IMPACT — RECOMMENDATIONS.
The department of cultural affairs, in consultation with the department of economic development, shall be responsible for keeping the general assembly and the legislative fiscal bureau informed on the overall economic impact to the state of the rehabilitation of eligible properties. An annual report shall be filed which shall include, but is not limited to, data on the number and potential value of rehabilitation projects begun during the latest twelve-month period, the total property rehabilitation tax credits originally granted during that period, the potential reduction in state tax revenues as a result of all tax credits still unused and eligible for refund, and the potential increase in local property tax revenues as a result of the rehabilitated projects. The department, to the extent it is able, shall provide recommendations on whether a limit on tax credits should be established, the need for a broader or more restrictive definition of eligible property, and other adjustments to the tax credits under this chapter.

Sec. 8. Section 422.7, subsection 31, Code 1999, is amended to read as follows:
31. For a person who is disabled, or is fifty-five years of age or older, or is the surviving spouse of an individual or a survivor having an insurable interest in an individual who would have qualified for the exemption under this subsection for the tax year, subtract, to the extent included, the total amount of a governmental or other pension or retirement pay, including, but not limited to, defined benefit or defined contribution plans, annuities, individual retirement accounts, plans maintained or contributed to by an employer, or maintained or contributed to by a self-employed person as an employer, and deferred compensation plans or any earnings attributable to the deferred compensation plans, up to a maximum of ~~five~~ six thousand dollars for a person, other than a husband or wife, who files a separate state income tax return and up to a maximum of ~~ten~~ twelve thousand dollars for a husband and wife who file a joint state income tax return. However, a surviving spouse who is not disabled or fifty-five years of age or older can only exclude the amount of pension or retirement pay received as a result of the death of the other spouse. A husband and wife filing separate state income tax returns or separately on a combined state return are allowed a combined maximum exclusion under this subsection of up to ~~ten~~ twelve thousand dollars. The ~~ten~~ twelve thousand dollar exclusion shall be allocated to the husband or wife in the proportion that each spouse's respective pension and retirement pay received bears to total combined pension and retirement pay received.

Sec. 9. Section 422.10, Code Supplement 1999, is amended to read as follows:
422.10 RESEARCH ACTIVITIES CREDIT.
1. The taxes imposed under this division shall be reduced by a state tax credit for increasing research activities in this state.
a. For individuals, the credit equals ~~six and one-half percent of the state's apportioned share of the qualifying expenditures for increasing research activities.~~ the sum of the following:
(1) Six and one-half percent of the excess of qualified research expenses during the tax year over the base amount for the tax year based upon the state's apportioned share of the qualifying expenditures for increasing research activities.
(2) Six and one-half percent of the basic research payments determined under section 41(e)(1)(A) of the Internal Revenue Code during the tax year based upon the state's apportioned share of the qualifying expenditures for increasing research activities.
The state's apportioned share of the qualifying expenditures for increasing research activities is a percent equal to the ratio of qualified research expenditures in this state to total qualified research expenditures.

b. In lieu of the credit amount computed in paragraph "a", subparagraph (1), a taxpayer may elect to compute the credit amount for qualified research expenses incurred in this state in a manner consistent with the alternative incremental credit described in section 41(c)(4) of the Internal Revenue Code. The taxpayer may make this election regardless of the method used for the taxpayer's federal income tax. The election made under this paragraph is for the tax year and the taxpayer may use another or the same method for any subsequent year.

c. For purposes of the alternate credit computation method in paragraph "b", the credit percentages applicable to qualified research expenses described in clauses (i), (ii), and (iii) of section 41(c)(4)(A) of the Internal Revenue Code are one and sixty-five hundredths percent, two and twenty hundredths percent, and two and seventy-five hundredths percent, respectively.

2. For purposes of this section, an individual may claim a research credit ~~for qualifying research expenditures~~ incurred by a partnership, ~~subchapter~~ S corporation, limited liability company, estate, or trust electing to have the income taxed directly to the individual. The amount claimed by the individual shall be based upon the pro rata share of the individual's earnings of a partnership, ~~subchapter~~ S corporation, limited liability company, estate, or trust.

3. For purposes of this section, ~~"qualifying expenditures for increasing research activities" means the qualifying expenditures~~ "base amount", "basic research payment", and "qualified research expense" mean the same as defined for the federal credit for increasing research activities ~~which would be allowable~~ under section 41 of the Internal Revenue Code ~~in effect on January 1, 1999~~, except that for the alternative incremental credit such amounts are for research conducted within this state. For purposes of this section, "Internal Revenue Code" means the Internal Revenue Code in effect on January 1, 2000.

4. Any credit in excess of the tax liability imposed by section 422.5 less the credits allowed under sections 422.11A, 422.12, and 422.12B for the taxable year shall be refunded with interest computed under section 422.25. In lieu of claiming a refund, a taxpayer may elect to have the overpayment shown on the taxpayer's final, completed return credited to the tax liability for the following taxable year.

Sec. 10. NEW SECTION. 422.11D PROPERTY REHABILITATION TAX CREDIT.

1. The taxes imposed under this division, less the credits allowed under sections 422.12 and 422.12B, shall be reduced by a property rehabilitation 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.

2. An individual may claim a property rehabilitation tax credit allowed a partnership, limited liability company, S corporation, estate, or trust electing to have the income taxed directly to the individual. The amount claimed by the individual shall be based upon the pro rata share of the individual's earnings of a partnership, limited liability company, S corporation, estate, or trust.

3. For purposes of this section, "eligible property" means the same as used in section 404A.1.

Sec. 11. NEW SECTION. 422.11E ASSISTIVE DEVICE TAX CREDIT — SMALL BUSINESS.

1. The taxes imposed under this division, less the credits allowed under sections 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.

2. To receive the assistive device tax credit, the eligible small business must submit an application to the department of economic development. If the taxpayer meets the criteria for eligibility, the department of economic development shall issue to the taxpayer a certification of entitlement for the assistive device tax credit. However, the combined amount of tax credits that may be approved for a fiscal year under this section and section 422.33, subsection 8A, shall not exceed five hundred thousand dollars. Tax credit certificates shall be issued on an earliest filed basis. The certification shall contain the taxpayer's name, address, tax identification number, the amount of the credit, and tax year for which the certificate applies. The taxpayer must file the tax credit certificate with the taxpayer's individual income tax return in order to claim the tax credit. The departments of economic development and revenue and finance shall each adopt rules to jointly administer this section and shall provide by rule for the method to be used to determine for which fiscal year the tax credits are approved.

3. An individual may claim an assistive device tax credit allowed a partnership, limited liability company, S corporation, estate, or trust electing to have the income taxed directly to the individual. The amount claimed by the individual shall be based upon the pro rata share of the individual's earnings of the partnership, limited liability company, S corporation, estate, or trust.

4. For purposes of this section:

a. "Assistive device" means any item, piece of equipment, or product system which is used to increase, maintain, or improve the functional capabilities of an individual with a disability in the workplace or on the job. "Assistive device" does not mean any medical device, surgical device, or organ implanted or transplanted into or attached directly to an individual. "Assistive device" does not include any device for which a certificate of title is issued by the state department of transportation, but does include any item, piece of equipment, or product system otherwise meeting the definition of "assistive device" that is incorporated, attached, or included as a modification in or to such a device issued a certificate of title.

b. "Disability" means the same as defined in section 225C.46.

c. "Small business" means a business that either had gross receipts for its preceding tax year of three million dollars or less or employed not more than fourteen full-time employees during its preceding tax year.

d. "Workplace modifications" means physical alterations to the work environment.

Sec. 12. Section 422.33, subsection 5, Code Supplement 1999, is amended to read as follows:

5. a. The taxes imposed under this division shall be reduced by a state tax credit for increasing research activities in this state equal to ~~six and one-half percent of the state's apportioned share of the qualifying expenditures for increasing research activities.~~ the sum of the following:

(1) Six and one-half percent of the excess of qualified research expenses during the tax year over the base amount for the tax year based upon the state's apportioned share of the qualifying expenditures for increasing research activities.

(2) Six and one-half percent of the basic research payments determined under section 41(e)(1)(A) of the Internal Revenue Code during the tax year based upon the state's apportioned share of the qualifying expenditures for increasing research activities.

The state's apportioned share of the qualifying expenditures for increasing research activities is a percent equal to the ratio of qualified research expenditures in this state to the total qualified research expenditures.

b. In lieu of the credit amount computed in paragraph "a", subparagraph (1), a corporation may elect to compute the credit amount for qualified research expenses incurred in this state in a manner consistent with the alternative incremental credit described in section

41(c)(4) of the Internal Revenue Code. The taxpayer may make this election regardless of the method used for the taxpayer's federal income tax. The election made under this paragraph is for the tax year and the taxpayer may use another or the same method for any subsequent year.

c. For purposes of the alternate credit computation method in paragraph "b", the credit percentages applicable to qualified research expenses described in clauses (i), (ii), and (iii) of section 41(c)(4)(A) of the Internal Revenue Code are one and sixty-five hundredths percent, two and twenty hundredths percent, and two and seventy-five hundredths percent, respectively.

d. For purposes of this subsection, ~~"qualifying expenditures for increasing research activities" means the qualifying expenditures~~ "base amount", "basic research payment", and "qualified research expense" mean the same as defined for the federal credit for increasing research activities ~~which would be allowable~~ under section 41 of the Internal Revenue Code ~~in effect on January 1, 1999~~, except that for the alternative incremental credit such amounts are for research conducted within this state. For purposes of this subsection, "Internal Revenue Code" means the Internal Revenue Code in effect on January 1, 2000.

e. Any credit in excess of the tax liability for the taxable year shall be refunded with interest computed under section 422.25. In lieu of claiming a refund, a taxpayer may elect to have the overpayment shown on its final, completed return credited to the tax liability for the following taxable year.

Sec. 13. Section 422.33, Code Supplement 1999, is amended by adding the following new subsection:

NEW SUBSECTION. 8A. a. The taxes imposed under this division 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 income tax purposes.

b. To receive the assistive device tax credit, the eligible small business must submit an application to the department of economic development. If the taxpayer meets the criteria for eligibility, the department of economic development shall issue to the taxpayer a certification of entitlement for the assistive device tax credit. However, the combined amount of tax credits that may be approved for a fiscal year under this subsection and section 422.11E shall not exceed five hundred thousand dollars. Tax credit certificates shall be issued on an earliest filed basis. The certification shall contain the taxpayer's name, address, tax identification number, the amount of the credit, and tax year for which the certificate applies. The taxpayer must file the tax credit certificate with the taxpayer's corporate income tax return in order to claim the tax credit. The departments of economic development and revenue and finance shall each adopt rules to jointly administer this subsection and shall provide by rule for the method to be used to determine for which fiscal year the tax credits are approved.

c. For purposes of this subsection:

(1) "Assistive device" means any item, piece of equipment, or product system which is used to increase, maintain, or improve the functional capabilities of an individual with a disability in the workplace or on the job. "Assistive device" does not mean any medical device, surgical device, or organ implanted or transplanted into or attached directly to an individual. "Assistive device" does not include any device for which a certificate of title is

issued by the state department of transportation, but does include any item, piece of equipment, or product system otherwise meeting the definition of "assistive device" that is incorporated, attached, or included as a modification in or to such a device issued a certificate of title.

(2) "Disability" means the same as defined in section 225C.46.

(3) "Small business" means a business that either had gross receipts for its preceding tax year of three million dollars or less or employed not more than fourteen full-time employees during its preceding tax year.

(4) "Workplace modifications" means physical alterations to the work environment.

Sec. 14. Section 422.33, Code Supplement 1999, is amended by adding the following new subsection:

NEW SUBSECTION. 9. a. The taxes imposed under this division shall be reduced by a property rehabilitation 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.

b. For purposes of this subsection, "eligible property" means the same as used in section 404A.1.

Sec. 15. Section 427.1, Code Supplement 1999, is amended by adding the following new subsection:

NEW SUBSECTION. 31. BARN PRESERVATION. The increase in assessed value added to a farm structure constructed prior to 1937 as a result of improvements made to the farm structure for purposes of preserving the integrity of the internal and external features of the structure as a barn is exempt from taxation. To be eligible for the exemption, the structure must have been first placed in service as a barn prior to 1937. The exemption shall apply to the assessment year beginning after the completion of the improvements to preserve the structure as a barn.

For purposes of this subsection, "barn" means an agricultural structure, in whatever shape or design, which is used for the storage of farm products or feed or for the housing of farm animals, poultry, or farm equipment.

Application for this exemption shall be filed with the assessing authority not later than February 1 of the first year for which the exemption is requested, on forms provided by the department of revenue and finance. The application shall describe and locate the specific structure for which the added value is requested to be exempt.

Once the exemption is granted, the exemption shall continue to be granted for subsequent assessment years without further filing of applications as long as the structure continues to be used as a barn. The taxpayer shall notify the assessing authority when the structure ceases to be used as a barn.

Sec. 16. Section 25B.7 does not apply to the exemption granted pursuant to section 15 of this Act.

Sec. 17. Section 427.1, Code Supplement 1999, is amended by adding the following new subsection:

NEW SUBSECTION. 32. ONE-ROOM SCHOOLHOUSE PRESERVATION. The increase in assessed value added to a one-room schoolhouse as a result of improvements made to the structure for purposes of preserving the integrity of the internal and external features of the structure as a one-room schoolhouse is exempt from taxation. The exemption shall apply to the assessment year beginning after the completion of the improvements to preserve the structure as a one-room schoolhouse.

Application for this exemption shall be filed with the assessing authority not later than February 1 of the first year for which the exemption is requested, on forms provided by the department of revenue and finance. The application shall describe and locate the specific one-room schoolhouse for which the added value is requested to be exempt.

Once the exemption is granted, the exemption shall continue to be granted for subsequent assessment years without further filing of applications as long as the structure is not used for dwelling purposes and the structure is preserved as a one-room schoolhouse. The taxpayer shall notify the assessing authority when the structure ceases to be eligible. The exemption in this subsection applies even though the one-room schoolhouse is no longer used for instructional purposes.

Sec. 18. Section 25B.7 does not apply to the exemption granted pursuant to section 17 of this Act.

Sec. 19. The legislative council is requested to establish an interim study committee to review the benefits of allowing state tax credits to be transferable. In reviewing the transferability of state tax credits, the study committee shall analyze the benefits to the transferor, the transferee, and to the state, the administrative costs involved, the conditions under which transferability should be allowed, and the restrictions that should be placed on transferability, if any. The study committee's report along with its recommendations shall be filed with the legislative council by January 1, 2001.

Sec. 20. APPLICABILITY PROVISION. Chapter 404A, enacted in this Act, applies to qualified rehabilitation costs incurred on or after July 1, 2000.

Sec. 21. APPLICABILITY DATE. Sections 1, 2, 9, 11, 12, and 13, of this Act apply retroactively to January 1, 2000, for tax years beginning on or after that date. Section 8 of this Act applies to tax years beginning on or after January 1, 2001.

Approved May 16, 2000

CHAPTER 1195

SALES AND USE TAXES — INFORMATION SERVICES — TRANSACTIONS DELIVERED ELECTROMAGNETICALLY, DIGITALLY, OR VIA CABLE OR FIBER OPTICS

H.F. 2562

AN ACT relating to the treatment for sales and use tax purposes of sales where the substance of the transactions is delivered by electromagnetic waves, digitally, or by way of cable or fiber optics, the exemption from the sales and use taxes of the furnishing, sale, or rental of information services, providing of refunds, requesting a task force be established, and including an effective and retroactive applicability date provision.

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

Section 1. Section 421.17, Code Supplement 1999, is amended by adding the following new subsection:

NEW SUBSECTION. 22B. Enter into agreements or compacts with remote sellers, retailers, or third-party providers for the voluntary collection of Iowa sales or use taxes attributable to sales into Iowa and to enter into multistate agreements or compacts that provide for the voluntary collection of sales and use taxes. The agreements or compacts shall generally conform to the provisions of Iowa sales and use tax statutes. All fees for services, reimbursements, remuneration, incentives, and costs incurred by the department associated with these agreements or compacts may be paid or reimbursed from the additional revenue gen-

erated. An amount is appropriated from amounts generated to pay or reimburse all costs associated with this subsection. Persons entering into an agreement or compact with the department pursuant to this subsection are subject to the requirements and penalties of the confidentiality laws of this state regarding tax information. Notwithstanding any other provisions of law, the contract, agreement, or compact shall provide for the registration, collection, report, and verification of amounts subject to this subsection.

Sec. 2. Section 422.43, Code Supplement 1999, is amended by adding the following new subsection:

NEW SUBSECTION. 15. For purposes of this division, a sale of tangible personal property does not occur if the substance of the transaction is delivered to the purchaser digitally, electronically, or utilizing cable, or by radio waves, microwaves, satellites, or fiber optics.

This subsection is repealed December 31, 2002.

Sec. 3. Section 422.45, Code Supplement 1999, is amended by adding the following new subsection:

NEW SUBSECTION. 57. The gross receipts from the services rendered, furnished, or performed of[1] the sale or rental of information services. "Information services" means every business activity, process, or function by which a seller or its agent accumulates, prepares, organizes, or conveys data, facts, knowledge, procedures, and like services to a buyer or its agent of such information through any tangible or intangible medium. Information accumulated, prepared, or organized for a buyer or its agent is an information service even though it may incorporate preexisting components of data or other information. Information services include, but are not limited to, database files, mailing lists, subscription files, market research, credit reports, surveys, real estate listings, bond rating reports, abstracts of title, bad check lists, broadcasting rating services, wire services, and scouting reports, or other similar items.

Sec. 4. Section 423.1, Code Supplement 1999, is amended by adding the following new subsection:

NEW SUBSECTION. 12A. "Tangible personal property" does not include the substance of a transaction that is delivered to the purchaser digitally, electronically, or utilizing cable, or by radio waves, microwaves, satellites, or fiber optics.

This subsection is repealed December 31, 2002.

Sec. 5.

1. The legislative council is requested to establish an e-commerce task force to study the issues e-commerce has generated under the state sales and use taxes, including the status as tangible or intangible property of the substance of transactions that are delivered digitally, electromagnetically, or through or by means of cable, satellites, or fiber optics, and vendor discounts.

2. The members of the task force should be selected by the legislative council from names submitted to the legislative council by July 1, 2000. The membership shall consist of at least the following:

a. Two members from the department of revenue and finance.
b. One member representing business taxpayers.
c. One member representing the retailer community as a whole.
d. One member who is employed by a large state or national retailer.
e. One member who is employed by a small main street retailer.
f. One member familiar with the e-commerce industry.
g. One member who is an economist familiar with e-commerce issues.
h. One member who is a representative of local governments.
i. One member representing the taxpayers as a whole.

[1] According to enrolled Act

j. Four members who are members of the general assembly, two who are senators and two who are representatives appointed by the legislative council with a senator and representative representing the majority party and a senator and representative representing the minority party.

Alternative members may be appointed for the nonlegislative members.

3. The task force shall provide the general assembly with a preliminary report by January 1, 2001. The final report with the task force's findings and recommendations is due by January 1, 2002.

Sec. 6. REFUNDS. Refunds of taxes, interest, or penalties which arise from claims resulting from the enactment of section 422.45, subsection 57, in this Act, for sales, rentals, or services occurring between March 15, 1995, and the effective date of this Act, shall be limited to twenty-five thousand dollars in the aggregate and shall not be allowed unless refund claims are filed prior to October 1, 2000, notwithstanding any other provision of law. If the amount of claims totals more than twenty-five thousand dollars in the aggregate, the department of revenue and finance shall prorate the twenty-five thousand dollars among all claimants in relation to the amounts of the claimants' valid claims.

Sec. 7. EFFECTIVE DATE AND RETROACTIVE APPLICABILITY PROVISION. This Act, being deemed of immediate importance, takes effect upon enactment and applies retroactively to March 15, 1995.

Approved May 16, 2000

CHAPTER 1196

ACCELERATED CAREER EDUCATION AND JOB TRAINING

S.F. 2439

AN ACT relating to the accelerated career education program, providing a tax credit from withholding, creating an accelerated career education grant program and fund, relating to the transfer of job training withholding to the workforce development fund account, and providing an effective date.

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

Section 1. Section 15.342A, Code Supplement 1999, is amended to read as follows:[1]

15.342A WORKFORCE DEVELOPMENT FUND ACCOUNT.

A workforce development fund account is established in the office of the treasurer of state under the control of the department. The account shall receive funds pursuant to section 422.16A up to a maximum of ~~ten~~ nine million dollars per year. The account shall also receive funds pursuant to section 15.251 with no dollar limitation.

Sec. 2. Section 260G.2, Code Supplement 1999, is amended by adding the following new subsection:

NEW SUBSECTION. 12A. "Program job credit" means the credit as provided in section 260G.4A.

Sec. 3. Section 260G.3, subsection 2, Code Supplement 1999, is amended to read as follows:

2. An agreement may include reasonable and necessary provisions to implement the accelerated career education program. If an agreement is entered into, the community

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[1] See chapter 1230, §35 herein

college and the employer shall notify the department of revenue and finance as soon as possible. The community college shall also file a copy of the agreement with the department of economic development as required in section 260G.4B. The agreement shall provide for program costs, including deferred costs, which may be paid from any of the following sources:

a. Program job credits which the employer receives based on the number of program job positions agreed to by the employer to be available under the agreement.

~~a.~~ b. Cash or in-kind contributions by the employer toward the program cost. At a minimum, the employer contribution shall be twenty percent of the program costs.

~~b.~~ c. Tuition, student fees, or special charges fixed by the board of directors to defray program costs.

~~c.~~ d. Guarantee by the employer of payments to be received under ~~paragraph~~ paragraphs "a" and "b".

Sec. 4. NEW SECTION. 260G.4A PROGRAM JOB CREDITS FROM WITHHOLDING.

In order to develop and retain program jobs within the state, an agreement entered into under section 260G.3 may include a provision for program job credits based on program jobs identified in the agreement. If a program provides that part of the program costs are to be met by receipt of program job credits, the method to be used shall be as follows:

1. Program job credits shall be based upon the program job positions identified and agreed to in the agreement.

2. Eligibility for program job credits shall be based on certification of program job positions and program job wages by the employer at the time established in the agreement. An amount up to ten percent of the gross program job wage as certified by the employer in the agreement shall be credited from the total payment made by an employer pursuant to section 422.16. The employer shall receive a credit against all withholding taxes due by the employer regardless of whether or not the withholding from the employer of current program job wages is less than ten percent. The employer shall remit the amount of the credit quarterly in the same manner as withholding payments are reported to the department of revenue and finance, to the community college to be allocated to and when collected paid into a special fund of the community college to pay, in part, the program costs. When the program costs have been paid, the employer credits shall cease and any moneys received after the program costs have been paid shall be remitted to the treasurer of state to be deposited in the general fund of the state.

3. The employer shall certify to the department of revenue and finance that the program job credit is in accordance with the agreement and shall provide other information the department may require.

4. A community college shall certify to the department of revenue and finance that the amount of the program job credit is in accordance with an agreement and shall provide other information the department may require.

5. Employees from an employer participating in an agreement shall receive full credit for the amount withheld as provided in section 422.16.

Sec. 5. NEW SECTION. 260G.4B MAXIMUM STATEWIDE PROGRAM JOB CREDIT.

1. The total amount of program job credits from all employers which shall be allocated for all accelerated career education programs in the state in any one fiscal year shall not exceed the sum of three million dollars in the fiscal year beginning July 1, 2000, six million dollars in the fiscal year beginning July 1, 2001, and six million dollars in the fiscal year beginning July 1, 2002, and every fiscal year thereafter. Any increase in program job credits above the six-million-dollar limitation per fiscal year shall be developed, based on recommendations in a study which shall be conducted by the department of economic development of the needs and performance of approved programs in the fiscal years beginning July 1, 2000, and July 1, 2001. The study's findings and recommendations shall be submitted to the general assembly by the department by December 31, 2002. The study shall include but not be limited to an examination of the quality of the programs, the number of program participant placements, the wages and benefits in program jobs, the level of employer contributions, the

size of participating employers, and employer locations. A community college shall file a copy of each agreement with the department of economic development. The department shall maintain an annual record of the proposed program job credits under each agreement for each fiscal year. Upon receiving a copy of an agreement, the department shall allocate any available amount of program job credits to the community college according to the agreement sufficient for the fiscal year and for the term of the agreement. When the total available program job credits are allocated for a fiscal year, the department shall notify all community colleges that the maximum amount has been allocated and that further program job credits will not be available for the remainder of the fiscal year. Once program job credits have been allocated to a community college, the full allocation shall be received by the community college throughout the fiscal year and for the term of the agreement even if the statewide program job credit maximum amount is subsequently allocated and used.

2. For the fiscal years beginning July 1, 2000, and July 1, 2001, the department of economic development shall allocate eighty thousand dollars of the first one million two hundred thousand dollars of program job credits authorized and available for that fiscal year to each community college. This allocation shall be used by each community college to provide funding for approved programs. For the fiscal year beginning July 1, 2002, and for every fiscal year thereafter, the department of economic development shall divide equally among the community colleges thirty percent of the program job credits available for that fiscal year for allocation to each community college to be used to provide funding for approved programs. If any portion of the allocation to a community college under this subsection has not been committed by April 1 of the fiscal year for which the allocation is made, the uncommitted portion is available for use by other community colleges. Once a community college has committed its allocation for any fiscal year under this subsection, the community college may receive additional program job credit allocations from those program job credits authorized and still available for that fiscal year.

Sec. 6. NEW SECTION. 260G.4C FACILITATOR.

The department of economic development shall administer the statewide allocations of program job credits to accelerated career education programs. The department shall collect data related to the programs and prepare an annual report regarding the activities of the programs during the previous fiscal year. The report shall be submitted to the governor and the general assembly by December 31 of each year.

Sec. 7. NEW SECTION. 260G.7 FUTURE PROGRAM DISCONTINUANCE.

The general assembly shall act on or before March 1, 2006, to discontinue the program job credits from withholding provided for in section 260G.4A.

Sec. 8. NEW SECTION. 261.22 ACCELERATED CAREER EDUCATION GRANTS.

1. An accelerated career education grant program is established to be administered by the college student aid commission. An individual is eligible for the grant program if the individual is a resident of this state who is enrolled at a community college as a participant in an accelerated career education program in accordance with the provisions of chapter 260G. The college student aid commission shall adopt rules pursuant to chapter 17A for determining financial need and to administer this section and shall develop and implement a method for allocating moneys based upon the need for skills and occupations for which an applied technical education is required.

2. To be eligible to receive a grant under this section, an applicant shall, in accordance with the rules of the commission, do the following:

a. Complete and file an application for an accelerated career education grant. 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 grant will be evaluated and determined.

3. If a student receives financial aid from any source other than the program established under this section, the full amount of such financial aid shall be considered part of the student's financial resources available in determining the amount of the student's financial need for the period of the financial aid. Grant moneys received by a student in accordance with this section shall be used to pay the student's cost of attendance, which includes community college tuition and fees, materials, textbooks and supplies, transportation, room and board, dependent care during the time the person is in class, and the purchase or rental of a computer.

4. The amount of the grant shall not exceed a student's annual financial need or two thousand dollars, whichever is less. The grants shall be awarded on an annual basis. Applicants who meet the application deadline shall be ranked by the commission in order of need. The commission shall award grants to applicants in order of need beginning with applicants with the greatest need, insofar as funds permit. If a student receiving grant moneys discontinues attendance before the end of any term, the entire amount of any refund due that student, up to the amount of any payments made under the grant, shall be paid by the institution to the state for deposit in the accelerated career education grant fund.

5. An accelerated career education grant fund is created in the state treasury as a separate fund under the control of the commission. Moneys in the fund shall be used for accelerated career education grants. The fund shall consist of any moneys appropriated by the general assembly and any other moneys available to and obtained or accepted by the commission from the federal government or private sources for placement in the fund. 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 the purposes of this section in subsequent fiscal years.

6. By December 15 of each year, the commission shall submit a report to the general assembly, the department of management, and the legislative fiscal bureau including, but not limited to, all of the following data:

a. The total funding of the grant program for the previous fiscal year itemized by type of funding including state, federal, or other funding. The information shall also be provided according to each community college.

b. The expenditures under the grant program and related information of the grant program including, but not limited to, all of the following:

(1) The number of participants in the accelerated career education program receiving moneys under the grant program.

(2) The number of participants in the accelerated career education program receiving moneys under the grant program who remain in the state upon completion of a program agreement.

(3) The number of participants in the accelerated career education program receiving moneys under the grant program who successfully complete a program agreement and the number who fail to successfully complete a program agreement.

c. Any other information requested by the general assembly.

Sec. 9. Section 422.16A, Code 1999, is amended to read as follows:[2]

422.16A JOB TRAINING WITHHOLDING — CERTIFICATION AND TRANSFER.

Upon the completion by a business of its repayment obligation for a training project funded under chapter 260E, including a job training project funded under section 15A.8 or repaid in whole or in part by the supplemental new jobs credit from withholding under section 15A.7 or section 15.331, the sponsoring community college shall report to the department of economic development the amount of withholding paid by the business to the community college during the final twelve months of withholding payments. The department of economic development shall notify the department of revenue and finance of that amount. The department shall credit to the workforce development fund account established in section 15.342A twenty-five percent of that amount each quarter for a period of ten

[2] See chapter 1230, §35 herein

years. If the amount of withholding from the business or employer is insufficient, the department shall prorate the quarterly amount credited to the workforce development fund account. The maximum amount from all employers which shall be transferred to the workforce development fund account in any year is ~~ten~~ nine million dollars.

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

Approved May 18, 2000

CHAPTER 1197

PRODUCTION OF LIFE SCIENCE PRODUCTS

H.F. 2491

AN ACT providing for the production of life science products, and providing for penalties and an effective date.

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

Section 1. Section 10B.4, subsection 2, Code 1999, is amended by adding the following new paragraph:

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

Sec. 2. NEW SECTION. 10C.1 DEFINITIONS.

1. "Actively engaged in farming" means the same as defined in section 10.1.
2. "Agricultural commodity" means the same as defined in section 190C.1.
3. "Agricultural land" means land suitable for use in farming as defined in section 9H.1.
4. "Animal" means a creature belonging to the bovine, caprine, equine, ovine, or porcine species.
5. "Corporation" means a domestic or foreign corporation subject to chapter 490, a nonprofit corporation, or a cooperative.
6. "Economic development board" or "board" means the economic development board created pursuant to section 15.103.
7. "Family farm entity" means the same as defined in section 10.1.
8. "Life science by-product" means a commodity, other than a life science product, if the commodity derives from the production of a life science product and the commodity is not intended or used for human consumption.
9. "Life science enterprise" or "enterprise" means a corporation or limited liability company organized for the purpose of using biotechnological systems or techniques for the production of life science products.
10. "Life science product" or "product" means a product derived from an animal by using biotechnological systems or techniques and which includes only the following:

a. Embryos or oocytes for use in animal implantation.
b. Blood, milk, or urine for use in the manufacture of pharmaceuticals or nutriceuticals.
c. Cells, tissue, or organs for use in animal or human transplantation.
11. "Limited liability company" means a limited liability company as defined in section 490A.102.

Sec. 3. NEW SECTION. 10C.2 PURPOSE.
The purpose of this chapter is to promote economic growth in this state during this period of revolutionary technological advancement in animal and human health sciences, by providing for the development of industries unrelated to traditional farming, but devoted to the production of life science products derived from animals.

Sec. 4. NEW SECTION. 10C.3 ENTERPRISES ENGAGED IN THE CREATION AND DEVELOPMENT OF LIFE SCIENCE PRODUCTS — PROHIBITION AND EXCEPTIONS.
Notwithstanding any other provision of law, a life science enterprise may acquire or hold an ownership or leasehold interest in agricultural land, if the economic development board approves a life science enterprise plan as provided in section 15.104. A life science enterprise must acquire or hold the agricultural land pursuant to the plan which may be amended as provided by the board. However, the life science enterprise shall not hold a total of more than three hundred twenty acres of agricultural land. The life science enterprise shall hold the land only for purposes of producing life science products according to the life science enterprise plan. In addition, the life science enterprise shall not acquire or hold agricultural land, if the life science enterprise receives any form of financing from an Iowa agricultural industry finance corporation as provided in chapter 15E. A life science enterprise that complies with this section may hold the interest in the agricultural land, as provided in the plan, for as long as commercial sales of products produced from the agricultural land are subject to the following:
1. The sale of life science products.
2. The sale of cull livestock kept on the agricultural land, surplus commodities produced as feed for livestock kept on the agricultural land, or life science by-products.

Sec. 5. NEW SECTION. 10C.4 ENFORCEMENT — PENALTIES.
1. The office of attorney general or a county attorney shall enforce the provisions of this chapter.
2. A life science enterprise violating this chapter shall be assessed a civil penalty of not more than twenty-five thousand dollars. Each day that a violation exists shall constitute a separate offense. In addition, the life science enterprise shall divest itself of any land held in violation of this chapter within one year after judgment. The court may determine the method of divesting an interest held by a life science enterprise found to be in violation of this chapter. A financial gain realized by the enterprise which disposes of an interest held in violation of this chapter shall be forfeited to the general fund of the state. All court costs and fees shall be paid by the enterprise holding the interest in violation of this chapter.
3. The courts of this state may prevent and restrain violations of this chapter through the issuance of an injunction. The attorney general or a county attorney shall institute suits on behalf of the state to prevent and restrain violations of this chapter.

Sec. 6. NEW SECTION. 10C.5 REPEAL.
Sections 10C.1 through 10C.4 and this section are repealed July 1, 2004.

Sec. 7. NEW SECTION. 10C.6 EXISTING LIFE SCIENCE ENTERPRISES.
This section applies on and after July 1, 2004.
1. a. A life science enterprise may acquire or hold agricultural land, notwithstanding section 10C.5 as that section exists in the 2003 Code or 2003 Code Supplement, if all of the following applies:

(1) The life science enterprise acquires the agricultural land on or before June 30, 2004.

(2) The enterprise acquires or holds the agricultural land pursuant to chapter 10C as that chapter exists in the 2003 Code or 2003 Code Supplement.

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

b. The life science enterprise must file a report with the secretary of state as provided in section 10B.4.

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

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

b. The person acquires or holds the agricultural land according to the life science enterprise plan filed by the person's predecessor in interest and approved by the economic development board. The plan may be amended at any time and approved by the board pursuant to section 15.104.

c. The person has filed a notice with the economic development board as required by the board. The notice shall state that the person is a successor in interest. The notice must be filed with the board within thirty days following the person's acquisition of the interest.

d. The person must file a report as a life science enterprise with the secretary of state as provided in section 10B.4.

Sec. 8. Section 15.104, Code 1999, is amended by adding the following new subsection:

NEW SUBSECTION. 4A. Review and approve or disapprove a life science enterprise plan or amendments to that plan as provided in chapter 10C as that chapter exists on or before June 30, 2004, and according to rules adopted by the board. A life science plan shall make a reasonable effort to provide for participation by persons who are individuals or family farm entities actively engaged in farming as defined in section 10.1. The persons may participate in the life science enterprise by holding an equity position in the life science enterprise or providing goods or service to the enterprise under contract. The plan must be filed with the board not later than June 30, 2004. The life science enterprise may file an amendment to a plan at any time. A life science enterprise is not eligible to file a plan, unless the life science enterprise files a notice with the board. The notice shall be a simple statement indicating that the life science enterprise may file a plan as provided in this section. The notice must be filed with the board not later than June 30, 2001. The notice, plan, or amendments shall be submitted by a life science enterprise as provided by the board. The board shall consult with the department of agriculture and land stewardship during its review of a life science plan or amendments to that plan. The plan shall include information regarding the life science enterprise as required by rules adopted by the board, including but not limited to all of the following:

a. A description of life science products to be developed by the enterprise.

b. The time frame required by the enterprise to develop the life science products.

c. The amount of capital investment required by the enterprise to develop the life science products.

d. The number of acres of land required to produce the life science products.

e. The type and extent of participation in the life science enterprise by persons who are individuals or family farm entities. If the plan does not provide for participation or minimal participation, the plan shall include a detailed explanation of the reasonable effort made by the life science enterprise to provide for participation.

Sec. 9. DIRECTIONS TO CODE EDITOR. The Code editor may transfer section 10C.6 to another chapter in the 2005 Code, and correct internal references as necessary in order to enhance the readability of the Code.

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

Approved May 18, 2000

CHAPTER 1198

SCHOOL FINANCE — SUPPLEMENTARY WEIGHTING

H.F. 2496

AN ACT providing supplementary weighting for determining enrollment in school districts involved in district-to-district or district-to-community-college sharing programs, and at-risk programs, and providing an effective date.

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

Section 1. Section 257.11, Code 1999, is amended to read as follows:

257.11 SUPPLEMENTARY WEIGHTING PLAN.

~~In order to provide additional funds for school districts which send their resident pupils to another school district or to a community college for classes, which jointly employ and share the services of teachers under section 280.15, which use the services of a teacher employed by another school district, or which jointly employ and share the services of a school superintendent under section 280.15 or 273.7A, a supplementary weighting plan for determining enrollment is adopted as follows:~~

1. REGULAR CURRICULUM. Pupils in a regular curriculum attending all their classes in the district in which they reside, taught by teachers employed by that district, and having administrators employed by that district, are assigned a weighting of one.

2. ~~SHARED CLASSES OR TEACHERS~~ DISTRICT-TO-DISTRICT SHARING.

a. In order to provide additional funds for school districts which send their resident pupils to another school district, which jointly employ and share the services of teachers under section 280.15, or which use the services of a teacher employed by another school district, a supplementary weighting plan for determining enrollment is adopted.

b. If the school budget review committee certifies to the department of management that the shared classes or teachers would otherwise not be implemented without the assignment of additional weighting, pupils attending classes in another school district ~~or a community college~~, attending classes taught by a teacher who is employed jointly under section 280.15, or attending classes taught by a teacher who is employed by another school district, are assigned a weighting of ~~one plus an additional portion equal to one times the percent~~ forty-eight hundredths of the percentage of the pupil's school day during which the pupil attends classes in another district ~~or community college~~, 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 pupil attending a class in which students from one or more other school districts are enrolled and the class is taught via the Iowa communications network is not deemed to be attending a class in another school district for the purposes of this subsection and the school district is not eligible for additional weighting for that class under this subsection.~~

~~School districts that have executed whole grade sharing agreements under section 282.10 through 282.12 beginning with the budget year beginning on July 1, 1993, and that received supplementary weighting for shared teachers or classes under this subsection for the school year ending prior to the effective date of the whole grade sharing agreement shall include in its supplementary weighting amount additional pupils added by the application of the supplementary weighting plan, equal to the pupils added by the application of the supplementary weighting plan pursuant to this subsection in the budget year beginning July 1, 1992. If at any time after July 1, 1993, a district ends a whole grade sharing agreement with the original district and does not enter into a whole grade sharing agreement with an alternative district, the school district shall reduce its supplementary weighting amount by the number of pupils added by the application of the supplementary weighting in this subsection in the budget year beginning July 1, 1992, in the budget year that the whole grade sharing agreement is terminated.~~

~~3. WHOLE GRADE SHARING. For the budget years beginning July 1, 1991, and July 1, 1992, in districts that have executed whole grade sharing agreements under sections 282.10 through 282.12, the school budget review committee shall assign a weighting equal to one plus an additional portion of one times the percent of the pupil's school day in which a pupil attends classes in another district or a community college, attends classes taught by a teacher who is employed jointly under section 280.15, or attends classes taught by a teacher who is employed by another district. The assignment of additional weighting to a school district shall continue for a period of five years. If the school district reorganizes during that five-year period, the assignment of the additional weighting shall be transferred to the reorganized district until the expiration of the five-year period. If a school district was receiving additional weighting for whole grade sharing under section 442.39, subsection 2, Code 1989, the district shall continue to be assigned additional weighting for whole grade sharing by the school budget review committee under this subsection so that the district is assigned the additional weighting for whole grade sharing for a total period of five years.~~

~~4. PUPILS INELIGIBLE. A pupil eligible for the weighting plan provided in section 256B.9 is not eligible for the weighting plan provided in this section.~~

~~5. SHARED SUPERINTENDENTS. For the budget years beginning July 1, 1991, and July 1, 1992, pupils enrolled in a school district in which the superintendent is employed jointly under section 280.15 or under section 273.7A, are assigned a weighting of one plus an additional portion of one for the superintendent who is jointly employed times the percent of the superintendent's time in which the superintendent is employed in the school district. However, the total additional weighting assigned under this subsection for a budget year for a school district shall not exceed seven and one-half and the total additional weighting added cumulatively to the enrollment of school districts sharing a superintendent shall not exceed twelve and one-half. The assignment of additional weighting to a school district shall continue for a period of five years. If the school district reorganizes during that five-year period, the assignment of the additional weighting shall be transferred to the reorganized district until the expiration of the five-year period.~~

~~If a district was receiving additional weighting for superintendent sharing or administrator sharing under section 442.39, subsection 4, Code 1989, the district shall continue to be assigned additional weighting for superintendent sharing or administrator sharing by the school budget review committee under this subsection so that the district is assigned the additional weighting for sharing for a total period of five years.~~

~~For purposes of this section, "superintendent" includes a person jointly employed under section 273.7A or section 280.15 to serve in the capacity of a school superintendent and who holds a superintendent's endorsement issued under chapter 272 by the board of educational examiners.~~

~~6. SHARED MATHEMATICS, SCIENCE, AND LANGUAGE COURSES. For the budget years beginning July 1, 1991, and July 1, 1992, a school district receiving additional funds under subsection 2 or 3 for its pupils at the ninth grade level and above that are enrolled in~~

~~sequential mathematics courses at the advanced algebra level and above; chemistry, advanced chemistry, physics or advanced physics courses; or foreign language courses at the second year level and above shall have an additional weighting of one pupil added to its total.~~

~~7. CALCULATION OF WEIGHTS. The school budget review committee shall calculate the weights to be used under subsections 2 and 3 to the nearest one-hundredth of one and under subsection 5 to the next highest one-thousandth of one. To the extent possible, the moneys generated by the weighting shall be equivalent to the moneys generated by the one-tenth, five-tenths, and twenty-five thousandths weighting provided in section 442.39, Code 1989.~~

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 not be eligible for supplementary weighting pursuant to this subsection.

3. DISTRICT-TO-COMMUNITY-COLLEGE SHARING.

a. In order to provide additional funds for school districts which send their resident pupils to a community college for classes, a supplementary weighting plan for determining enrollment is adopted.

b. If the school budget review committee certifies to the department of management that the class would not otherwise be implemented without the assignment of additional weighting, pupils attending a community college-offered class or attending a class taught by a community college-employed teacher are assigned a weighting of forty-eight hundredths of the percentage of the pupil's school day during which the pupil attends class in the community college or attends a class taught by a community college-employed teacher. The following requirements shall be met for the purposes of assigning an additional weighting for classes offered through a sharing agreement between a school district and community college. The class must be:

(1) Supplementing, not supplanting, high school courses.

(2) Included in the community college catalog or an amendment or addendum to the catalog.

(3) Open to all registered community college students, not just high school students.

(4) For college credit and the credit must apply toward an associate of arts or associate of science degree, or toward an associate of applied arts or associate of applied science degree, or toward completion of a college diploma program.

(5) Taught by a teacher meeting community college licensing requirements.

(6) Taught utilizing the community college course syllabus.

(7) Of the same quality as a course offered on a community college campus.

4. AT-RISK PROGRAMS AND ALTERNATIVE SCHOOLS.

a. In order to provide additional funding to school districts for programs serving at-risk pupils and alternative school pupils in secondary schools, a supplementary weighting plan for at-risk pupils is adopted. A supplementary weighting of forty-eight ten-thousandths per pupil shall be assigned to the percentage of pupils in a school district enrolled in grades one through six, as reported by the school district on the basic educational data survey for the base year, who are eligible for free and reduced price meals under the federal National School Lunch Act and the federal Child Nutrition Act of 1966, 42 U.S.C. § 1751-1785, multiplied by the budget enrollment in the school district; and a supplementary weighting of one hundred fifty-six one-hundred-thousandths per pupil shall be assigned to pupils included in the budget enrollment of the school district. Amounts received as supplementary weighting for at-risk pupils shall be utilized by a school district to develop or maintain at-risk pupils' programs, which may include alternative school programs.

b. Notwithstanding paragraph "a", a school district which received supplementary weighting for an alternative high school program for the school budget year beginning July 1, 1999, shall receive an amount of supplementary weighting for the next three school budget years as follows:

(1) For the budget year beginning July 1, 2000, the greater of the amount of supplementary weighting determined pursuant to paragraph "a", or sixty-five percent of the amount received for the budget year beginning July 1, 1999.

(2) For the budget year beginning July 1, 2001, the greater of the amount of supplementary weighting determined pursuant to paragraph "a", or forty percent of the amount received for the budget year beginning July 1, 1999.

(3) For the budget year beginning July 1, 2002, and succeeding budget years, the amount of supplementary weighting determined pursuant to paragraph "a".

If a school district receives an amount pursuant to this paragraph "b" which exceeds the amount the district would otherwise have received pursuant to paragraph "a", the department of management shall annually determine the amount of the excess that would have been state aid and the amount that would have been property tax if the school district had generated that amount pursuant to paragraph "a", and shall include the amounts in the state aid payments and property tax levies of school districts. The department of management shall recalculate the supplementary weighting amount received each year to reflect the amount of the reduction in funding from one budget year to the next pursuant to subparagraphs (1) through (3). It is the intent of the general assembly that when weights are recalculated under this subsection, the total amounts generated by each weight shall be approximately equal.

c. If the amount to be received under paragraph "a" or "b" by a school district or a consortium of school districts is less than fifty thousand dollars and the school district or consortium received funds under section 279.51, subsection 1, paragraph "c" or "e", Code 1999, for school-based youth services during the budget year beginning July 1, 1999, such school district or consortium shall receive a total amount under this subsection of fifty thousand dollars for each of the budget years beginning July 1, 2000, and July 1, 2001. The department of management shall adjust the supplementary weighting of a school district or the school district acting as the fiscal agent for a consortium eligible under this paragraph in a manner to assure that the district or the consortium receives the total sum of fifty thousand dollars as guaranteed in this paragraph. If the consortium elects not to continue a school-based youth service program, the funds shall be distributed equally to the school districts in the consortium. This paragraph is repealed effective July 1, 2002, for budget years beginning on or after that date. To the extent possible, the total amount of moneys generated by the enactment of this subsection, including this paragraph, shall be equivalent to the amount generated under this subsection without the inclusion of this paragraph. The department of management shall adjust the weighting assigned in this subsection to reflect this intent.

5. SHARED CLASSES DELIVERED OVER THE IOWA COMMUNICATIONS NETWORK. A pupil attending a class in which students from one or more other school districts are enrolled and which is taught via the Iowa communications network is not deemed to be attending a class in another school district or in a community college for the purposes of this section and the school district is not eligible for supplementary weighting for that class under this section.

6. PUPILS INELIGIBLE. A pupil eligible for the weighting plan provided in section 256B.9 is not eligible for supplementary weighting pursuant to this section. A pupil attending an alternative program or an at-risk pupils' program, including alternative high school programs, is not eligible for supplementary weighting under subsection 2.

7. SCHOOL FINANCE APPROPRIATIONS REPORT. The department of education shall annually prepare a report regarding school finance provisions or programs receiving a standing appropriation, including supplementary weighting programs. The report shall provide information regarding amounts received or accessed by school districts pursuant to the provisions or programs, whether the amounts received represent an increase or decrease over amounts received during the previous budget year and the percentage increase or decrease, conclusions regarding the adequacy of amounts received by school districts and whether the amounts received are equitable between school districts based upon input from the school districts and analysis by the department, and the rationale for current trends

being observed by the department and projections regarding possible trends in the future. The report shall be submitted to the general assembly by January 1 each year, and copies of the report shall be forwarded to the chairpersons and members of the committee on education in the senate and in the house of representatives.

Sec. 2. Section 279.51, subsection 1, unnumbered paragraph 1, Code Supplement 1999, is amended to read as follows:

There is appropriated from the general fund of the state to the department of education for the fiscal year beginning July 1, ~~1998~~ 2000, and each succeeding fiscal year, the sum of ~~fifteen~~ twelve million ~~three~~ five hundred sixty thousand dollars.

Sec. 3. Section 279.51, subsection 1, paragraphs c and e, Code Supplement 1999, are amended by striking the paragraphs.

Sec. 4. Section 279.51, subsection 3, Code Supplement 1999, is amended by striking the subsection.

Sec. 5. Section 257.12, Code 1999, is repealed.

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

Approved May 18, 2000

CHAPTER 1199

BOARD OF EDUCATIONAL EXAMINERS — INVESTIGATIVE INFORMATION

S.F. 292

AN ACT providing for the designation of investigative information possessed by the board of educational examiners as privileged and confidential.

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

Section 1. Section 272.13, Code 1999, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. All complaint files, investigation files, other investigation reports, and other investigative information in the possession of the board or its employees or agents, which relate to licensee discipline, are privileged and confidential, and are not subject to discovery, subpoena, or other means of legal compulsion for their release to a person other than the respondent and the board and its employees and agents involved in licensee discipline, and are not admissible in evidence in a judicial or administrative proceeding other than the proceeding involving licensee discipline. However, investigative information in the possession of the board or its employees or agents which relates to licensee discipline may be disclosed to appropriate licensing authorities within this state, the appropriate licensing authority in another state, the District of Columbia, or a territory or country in which the licensee is licensed or has applied for a license. A final written decision and finding of fact of the board in a disciplinary proceeding is a public record.

Approved May 19, 2000

CHAPTER 1200

SELF-INSURED DENTAL INSURANCE — SCHOOL CORPORATIONS

S.F. 441

AN ACT providing an exemption from certain requirements of self-insured dental insurance plans provided by school corporations.

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

Section 1. Section 509A.15, Code 1999, is amended by adding the following new subsection:

NEW SUBSECTION. 4. One or more school corporations maintaining a self-insured dental insurance plan, with yearly claims which do not exceed one percent of the school corporation's general fund budget, shall be exempt from the following requirements with respect to that plan:

a. Maintaining aggregate excess loss coverage required by rules relating to the adequacy of reserves adopted pursuant to subsection 1, paragraph "b".

b. Contracting with a third-party administrator pursuant to subsection 1, paragraph "d".

The yearly claim amount shall be determined annually on the policy renewal date, or an alternative date established by rule, by a plan administrator or school corporation employee to be designated by the plan administrator. The exemption shall not apply for the year following a year in which yearly claims are determined to exceed one percent of the school corporation's general fund budget.

Approved May 19, 2000

CHAPTER 1201

CRIMINAL OFFENSES AND LIQUOR LICENSEE OR PERMITTEE REGULATION

S.F. 2241

AN ACT relating to penalties and regulations concerning certain criminal offenses and liquor licenses and permits.

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

Section 1. Section 123.3, Code 1999, is amended by adding the following new subsection:

NEW SUBSECTION. 12A. "Designated security employee" means an agent or employee of a licensee or permittee who is primarily employed for security purposes at a commercial establishment licensed or permitted under this chapter.

Sec. 2. Section 123.31, Code 1999, is amended by adding the following new subsection:

NEW SUBSECTION. 6A. A statement, if required by the local authority indicating whether all designated security employees have received training and certification as provided in section 123.32.

Sec. 3. Section 123.32, Code 1999, is amended by adding the following new subsection:

NEW SUBSECTION. 3A. A local authority, as a condition of obtaining a license or permit for on-premises consumption, may require a designated security employee as defined in

section 123.3, to be trained and certified in security methods. The training shall include but is not limited to mediation techniques, civil rights or unfair practices awareness as provided in section 216.7, and providing instruction on the proper physical restraint methods used against a person who has become combative.

Sec. 4. Section 124.401, subsection 5, unnumbered paragraph 1, Code Supplement 1999, is amended to read as follows:

It is unlawful for any person knowingly or intentionally to possess a controlled substance unless such substance was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of the practitioner's professional practice, or except as otherwise authorized by this chapter. Any person who violates this subsection is guilty of a serious misdemeanor for a first offense. A person who commits a violation of this subsection and who has previously been convicted of violating this ~~subsection~~ chapter or chapter 124A, 124B, or 453B is guilty of an aggravated misdemeanor. A person who commits a violation of this subsection and has previously been convicted two or more times of violating this ~~subsection~~ chapter or chapter 124A, 124B, or 453B is guilty of a class "D" felony.

Sec. 5. NEW SECTION. 622.51A COMPUTER PRINTOUTS.

For purposes of chapters 714 and 716, computer printouts shall be admitted as evidence of any computer software, program, or data contained in or taken from a computer, notwithstanding an applicable rule of evidence to the contrary.

Sec. 6. NEW SECTION. 702.1A COMPUTER TERMINOLOGY.

For purposes of section 714.1, subsection 7A, and section 716.6B:

1. "Computer" means an electronic device which performs logical, arithmetical, and memory functions by manipulation of electronic or magnetic impulses, and includes all input, output, processing, storage, computer software, and communication facilities which are connected or related to the computer in a computer system or computer network.

2. "Computer access" means to instruct, communicate with, store data in, or retrieve data from a computer, computer system, or computer network.

3. "Computer data" means a representation of information, knowledge, facts, concepts, or instructions that has been prepared or is being prepared in a formalized manner and has been processed, or is intended to be processed in a computer. Computer data may be in any form including, but not limited to, printouts, magnetic storage media, punched cards, and as stored in the memory of a computer.

4. "Computer network" means a set of related, remotely connected devices and communication facilities including two or more computers with capability to transmit data among them through communication facilities.

5. "Computer program" means an ordered set of instructions or statements that, when executed by a computer, causes the computer to process data.

6. "Computer services" means the use of a computer, computer system, or computer network and includes, but is not limited to, computer time, data processing, and storage functions.

7. "Computer software" means a set of computer programs, procedures, or associated documentation used in the operation of a computer.

8. "Computer system" means related, connected or unconnected, computers or peripheral equipment.

9. "Loss of property" means the greatest of the following:

a. The retail value of the property involved.

b. The reasonable replacement or repair cost, whichever is less.

10. "Loss of services" means the reasonable value of the damage created by the unavailability or lack of utility of the property or services involved until repair or replacement can be effected.

Sec. 7. Section 702.14, Code 1999, is amended to read as follows:

702.14 PROPERTY.

"Property" is anything of value, whether publicly or privately owned, including but not limited to computers and computer data, computer software, and computer programs. The term includes both tangible and intangible property, labor, and services. The term includes all that is included in the terms "real property" and "personal property".

Sec. 8. NEW SECTION. 702.20A VIDEO RENTAL PROPERTY.

"Video rental property" means an audiovisual recording, including a videotape, videodisc, or other tangible medium of expression on which an audiovisual work is recorded or otherwise stored, or any equipment or supplies used to view the recording, and which is held out for rental to the public in the ordinary course of business.

Sec. 9. Section 714.1, Code 1999, is amended by adding the following new subsections:

NEW SUBSECTION. 7A. Knowingly and without authorization accesses or causes to be accessed a computer, computer system, or computer network, or any part thereof, for the purpose of obtaining computer services, information, or property or knowingly and without authorization and with the intent to permanently deprive the owner of possession, takes, transfers, conceals, or retains possession of a computer, computer system, or computer network or any computer software or computer program, or computer data contained in a computer, computer system, or computer network.

NEW SUBSECTION. 7B. a. Obtains the temporary use of video rental property with the intent to deprive the owner of the use and possession of the video rental property without the consent of the owner.

b. Lawfully obtains the temporary use of video rental property and fails to return the video rental property by the agreed time with the intent to deprive the owner of the use and possession of the video rental property without the consent of the owner. The aggregate value of the video rental property involved shall be the original retail value of the video rental property.

Sec. 10. NEW SECTION. 714.6A VIDEO RENTAL PROPERTY THEFT — EVIDENCE OF INTENTION — AFFIRMATIVE DEFENSE.

1. The fact that a person obtains possession of video rental property by means of deception, including but not limited to furnishing a false name, address, or other identification to the owner, is evidence that possession was obtained with intent to knowingly deprive the owner of the use and possession of the video rental property.

2. The fact that a person, having lawfully obtained possession of video rental property, fails to pay the owner the fair market value of the video rental property or to return or make arrangements acceptable to the owner to return the video rental property to the owner, within forty-eight hours after receipt of written notice and demand from the owner is evidence of an intent to knowingly deprive the owner of the use and possession of the video rental property.

3. It shall be an affirmative defense to a prosecution under section 714.1, subsection 7B, paragraph "a", if the defendant in possession of video rental property pays the owner the fair market value of the video rental property or returns the property to the owner within forty-eight hours of arrest, together with any standard overdue charges for the period that the owner was unlawfully deprived of possession, but not to exceed one hundred twenty days, and the value of the damage to the property, if any.

Sec. 11. NEW SECTION. 716.6B UNAUTHORIZED COMPUTER ACCESS.

A person who knowingly and without authorization accesses a computer, computer system, or computer network commits a simple misdemeanor.

Sec. 12. Section 722.4, Code 1999, is amended to read as follows:

722.4 BRIBERY OF ELECTOR OR ELECTION OFFICIALS.

1. A person who offers, promises, or gives anything of value or any benefit to any elector for the purpose of influencing the elector's vote, in any election authorized by law, or any

elector who receives anything of value or any benefit knowing that it was given for such purpose, commits an aggravated misdemeanor.

2. A person who offers, promises, or gives anything of value or any benefit to any precinct election official authorized by law, or to any executive officer attending the same, conditioned on some act done or omitted to be done contrary to the person's official duty in relation to such election, commits an aggravated misdemeanor.

Sec. 13. Section 722.8, Code 1999, is amended to read as follows:

722.8 DURESS TO PREVENT OR PROCURE VOTING.

1. A person who unlawfully and by force, or threats of force, prevents or endeavors to prevent an elector from giving the elector's vote at any public election commits an aggravated misdemeanor.

2. A person who procures, or endeavors to procure, the vote of an elector for or against any candidate or for or against any issue by means of violence, threats of violence, or by any means of duress commits an aggravated misdemeanor.

Sec. 14. Section 901B.1, subsection 3, Code 1999, is amended to read as follows:

3. Each judicial district and judicial district department of correctional services shall implement an intermediate criminal sanctions program by July 1, 2001. An intermediate criminal sanctions program shall consist of only levels two, three, and sublevels one and three of level four of the corrections continuum and shall be operated in accordance with an intermediate criminal sanctions plan adopted by the chief judge of the judicial district and the director of the judicial district department of correctional services. The plan adopted shall be designed to reduce probation revocations to prison through the use of incremental, community-based sanctions for probation violations.

The plan shall be subject to rules adopted by the department of corrections. The rules shall include provisions for transferring individuals between levels in the continuum. The provisions shall include a requirement that the reasons for the transfer be in writing and that an opportunity for the individual to contest the transfer be made available.

A copy of the program and plan shall be filed with the chief judge of the judicial district, the department of corrections, and the division of criminal and juvenile justice planning of the department of human rights by July 1, 2001.

Sec. 15. Section 907.3, subsection 2, unnumbered paragraph 1, Code Supplement 1999, is amended to read as follows:

At the time of or after pronouncing judgment and with the consent of the defendant, the court may defer the sentence and assign the defendant to the judicial district department of correctional services. The court may assign the defendant to supervision or services under section 901B.1 at the level of sanctions which the district department determines to be appropriate~~, if an intermediate criminal sanctions plan and program has been adopted in the judicial district under section 901B.1~~. However, the court shall not defer the sentence for a violation of any of the following:

Sec. 16. Chapter 714C, Code 1999, is repealed.

Sec. 17. Chapter 716A, Code 1999 and Code Supplement 1999, is repealed.

Sec. 18. Sections 722.6 and 722.9, Code 1999, are repealed.

Approved May 19, 2000

CHAPTER 1202

TREATMENT PROGRAMS FOR OPERATING WHILE INTOXICATED VIOLATORS

S.F. 2243

AN ACT relating to the placement in treatment programs of offenders sentenced for operating while intoxicated violations.

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

Section 1. Section 904.513, subsection 1, Code 1999, is amended to read as follows:

1. a. The department of corrections, in cooperation with the judicial district departments of correctional services, shall establish in each judicial district a continuum of programming for the supervision and treatment of offenders convicted of violating chapter 321J who are sentenced to the custody of the director. The continuum shall include a range of sanctioning options that include, but are not limited to, prisons and residential facilities.

b. (1) The department of corrections shall develop standardized assessment criteria for the assignment of offenders pursuant to this chapter.

(2) Offenders convicted of violating chapter 321J, sentenced to the custody of the director, and awaiting placement in a community residential substance abuse treatment program for such offenders shall be placed in an institutional substance abuse program for such offenders within sixty days of admission to the institution or as soon as practical. When placing offenders convicted of violating chapter 321J in community residential substance abuse treatment programs for such offenders, the department shall give priority as appropriate to the placement of those offenders currently in institutional substance abuse programs for such offenders. The department shall work with each judicial district to enable such offenders to enter community residential substance abuse treatment programs at a level comparable to their prior institutional program participation.

(3) Assignment shall be for the purposes of risk management and substance abuse treatment and may include education or work programs when the offender is not participating in other program components.

(4) Assignment may also be made on the basis of the offender's treatment program performance, as a disciplinary measure, for medical needs, and for space availability at community residential facilities. If there is insufficient space at a community residential facility, the court may order an offender to be released to the supervision of the judicial district department of correctional services or held in jail.

Approved May 19, 2000

CHAPTER 1203

LAW ENFORCEMENT — PERSONAL PROPERTY DISPOSITION — STATE AND LOCAL PENALTIES

S.F. 2245

AN ACT relating to law enforcement agencies, and to the enforcement of criminal offenses and local ordinances, and making penalties applicable.

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

Section 1. Section 80.39, Code 1999, is amended to read as follows:

80.39 DISPOSITION OF PERSONAL PROPERTY.

1. Personal property, except for motor vehicles subject to sale pursuant to section 321.89, and seizable property subject to disposition pursuant to chapter 809 or 809A, which personal property is found or seized by, turned in to, or otherwise lawfully comes into the possession of the department of public safety or a local law enforcement agency and which the department or agency does not own, shall be disposed of pursuant to this section. If by examining the property the owner or lawful custodian of the property is known or can be readily ascertained, the department or agency shall notify the owner or custodian by certified mail directed to the owner's or custodian's last known address, as to the location of the property. If the identity or address of the owner cannot be determined, notice by one publication in a newspaper of general circulation in the area where the property was found is sufficient notice. A published notice may contain multiple items.

2. The department or agency may return the property to a person if that person or the person's representative does all of the following:

a. Appears at the location where the property is located.

b. Provides proper identification.

c. Demonstrates ownership or lawful possession of the property to the satisfaction of the department or agency.

3. After ninety days following the mailing or publication of the notice required by this section, or if the owner or lawful custodian of the property is unknown or cannot be readily determined, or the department or agency has not turned the property over to the owner, the lawful custodian, or the owner's or custodian's representative, the department or agency may dispose of the property in any lawful way, including but not limited to the following:

a. Selling the property at public auction with the proceeds, less department or agency expenses, going to the general fund of the state if sold by the department, the rural services fund if sold by a county agency, and the general fund of a city if sold by a city agency, however, the department or agency shall be reimbursed from the proceeds for the reasonable expenses incurred in selling the property at the auction.

b. Retaining the property for the department's or agency's own use.

c. Giving the property to another agency of government.

d. Giving the property to an appropriate charitable organization.

e. Destroying the property.

4. Except when a person appears in person or through a representative within the time periods set by this section, and satisfies the department or agency that the person is the owner or lawful custodian of the property, disposition of the property shall be at the discretion of the department or agency. The department or agency shall maintain the receipt and disposition records for all property processed under this section. Good faith compliance with this section is a defense to any claim or action at law or in equity regarding the disposition of the property.

Sec. 2. Section 321.47, Code Supplement 1999, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. A person convicted of a violation of this section is guilty of a simple misdemeanor punishable as a scheduled violation under section 805.8, subsection 2, paragraph "ad".

Sec. 3. Section 321.91, subsection 2, Code 1999, is amended to read as follows:

2. ~~Any~~ A person ~~who abandons a vehicle shall be~~ convicted of a violation of this section is guilty of a simple misdemeanor punishable as a scheduled violation under section 805.8, subsection 2, paragraph "m".

Sec. 4. Section 321.99, Code 1999, is amended to read as follows:

321.99 FRAUDULENT USE OF REGISTRATION.

A person shall not knowingly lend to another a registration card, registration plate, special plate, or permit issued to the person if the other person desiring to borrow the card, plate, or permit would not be entitled to the use of it. A person shall not knowingly permit the use of a registration card, registration plate, special plate, or permit issued to the person by one not entitled to it, nor shall a person knowingly display upon a vehicle a registration card, registration plate, special plate, or permit not issued for that vehicle under this chapter. A person convicted of a violation of this section is guilty of a simple misdemeanor punishable as a scheduled violation under section 805.8, subsection 2, paragraph "o".

Sec. 5. Section 321.104, unnumbered paragraph 1, Code Supplement 1999, is amended to read as follows:

It is a simple misdemeanor~~,~~ punishable as ~~provided in section 321.482~~ a scheduled violation under section 805.8, subsection 12, for any person to commit any of the following acts:

Sec. 6. Section 321.115, Code 1999, is amended by adding the following new subsection:

NEW SUBSECTION. 5. A person convicted of a violation of this section is guilty of a simple misdemeanor punishable as a scheduled violation under section 805.8, subsection 2, paragraph "o".

Sec. 7. Section 321.219, Code 1999, is amended to read as follows:

321.219 PERMITTING UNAUTHORIZED MINOR TO DRIVE.

~~No~~ A person shall not cause or knowingly permit the person's child or ward under the age of eighteen years to drive a motor vehicle upon any highway when ~~such~~ the minor is not authorized ~~hereunder~~ under this section or in violation of ~~any of the provisions of~~ this chapter.

A person convicted of a violation of this section is guilty of a simple misdemeanor punishable as a scheduled violation under section 805.8, subsection 2, paragraph "w".

Sec. 8. Section 321.220, Code 1999, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. A person convicted of a violation of this section is guilty of a simple misdemeanor punishable as a scheduled violation under section 805.8, subsection 2, paragraph "w".

Sec. 9. Section 321.234A, Code Supplement 1999, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. A person convicted of a violation of this section is guilty of a simple misdemeanor punishable as a scheduled violation under section 805.8, subsection 4, paragraph "b".

Sec. 10. Section 321.247, Code 1999, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. A person convicted of a violation of this section is guilty of a simple misdemeanor punishable as a scheduled violation under section 805.8, subsection 2, paragraph "e".

Sec. 11. Section 321.294, Code 1999, is amended to read as follows:

321.294 MINIMUM SPEED REGULATION.

~~No~~ A person shall not drive a motor vehicle at such a slow speed as to impede or block the normal and reasonable movement of traffic except when reduced speed is necessary for safe operation or in compliance with law. Peace officers are hereby authorized to enforce this provision by directions to drivers, and in the event of apparent willful disobedience to this provision and refusal to comply with direction of an officer in accordance herewith the continued slow operation by a driver shall be a simple misdemeanor~~, and be punished as provided in section 321.482~~ punishable as a scheduled violation under section 805.8, subsection 2, paragraph "l".

Sec. 12. Section 321.302, Code 1999, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. A person convicted of a violation of this section is guilty of a simple misdemeanor punishable as a scheduled violation under section 805.8, subsection 2, paragraph "h".

Sec. 13. Section 321.327, Code 1999, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. A person convicted of a violation of this section is guilty of a simple misdemeanor punishable as a scheduled violation under section 805.8, subsection 2, paragraph "i".

Sec. 14. Section 321.366, unnumbered paragraph 3, Code 1999, is amended to read as follows:

Violations of this section are punishable ~~as provided in section 321.482~~ as a scheduled violation under section 805.8, subsection 2, paragraph "ai".

Sec. 15. Section 321.381, Code 1999, is amended to read as follows:

321.381 MOVEMENT OF UNSAFE OR IMPROPERLY EQUIPPED VEHICLES.

It is a simple misdemeanor~~,~~ punishable ~~as provided in section 321.482~~ as a scheduled violation under section 805.8, subsection 2, paragraph "m", for any person to drive or move or for the owner to cause or knowingly permit to be driven or moved on any highway any vehicle or combination of vehicles which is in such unsafe condition as to endanger any person, or which does not contain those parts or is not at all times equipped with such lamps and other equipment in proper condition and adjustment as required in this chapter, or which is equipped with one or more unsafe tires or which is equipped in any manner in violation of this chapter.

Sec. 16. Section 321.421, Code 1999, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. A person convicted of a violation of this section is guilty of a simple misdemeanor punishable as a scheduled violation under section 805.8, subsection 2, paragraph "e".

Sec. 17. Section 331.302, subsection 2, Code Supplement 1999, is amended to read as follows:

2. A county shall not provide a penalty in excess of a ~~two~~ five hundred dollar fine or in excess of thirty days imprisonment for the violation of an ordinance. The criminal penalty surcharge required by section 911.2 shall be added to a county fine and is not a part of the county's penalty.

Sec. 18. Section 331.302, subsection 4A, paragraph a, subparagraph (2), Code Supplement 1999, is amended to read as follows:

(2) A portion of the Code of Iowa may be adopted by reference only if the criminal penalty provided by the law adopted does not exceed thirty days' imprisonment ~~or~~ and a ~~two~~ five hundred dollar fine.

Sec. 19. Section 331.652, Code 1999, is amended by adding the following new subsection:
NEW SUBSECTION. 8. The sheriff may dispose of personal property under section 80.39.

Sec. 20. Section 364.3, subsection 2, Code Supplement 1999, is amended to read as follows:
2. A city shall not provide a penalty in excess of a ~~two~~ five hundred dollar fine or in excess of thirty days imprisonment for the violation of an ordinance. An amount equal to ten percent of all fines collected by cities shall be deposited in the account established in section 602.8108. However, one hundred percent of all fines collected by a city pursuant to section 321.236, subsection 1, shall be retained by the city. The criminal penalty surcharge required by section 911.2 shall be added to a city fine and is not a part of the city's penalty.

Sec. 21. Section 364.22, Code 1999, is amended by adding the following new subsection:
NEW SUBSECTION. 14. A police department may dispose of personal property under section 80.39.

Sec. 22. Section 380.10, subsection 2, Code 1999, is amended to read as follows:
2. A portion of the Code of Iowa may be adopted by reference only if the criminal penalty provided by the law adopted does not exceed thirty days' imprisonment ~~or~~ and a ~~one~~ five hundred dollar fine.

Sec. 23. Section 482.15, Code 1999, is amended to read as follows:
482.15 PENALTIES.
A person who violates ~~a provision of~~ this chapter or a rule issued under this chapter is guilty of a simple misdemeanor punishable as a scheduled violation under section 805.8, subsection 5, paragraph "e".

Sec. 24. Section 483A.42, Code 1999, is amended to read as follows:
483A.42 PENALTIES.
A person who violates ~~a provision of~~ this chapter is guilty of a simple misdemeanor ~~and shall be fined not less than ten dollars for each cited offense~~ punishable as a scheduled violation under section 805.8, subsection 5, paragraph "e".

Sec. 25. Section 805.8, subsection 2, paragraph e, Code Supplement 1999, is amended to read as follows:
e. For improperly used or nonused or defective or improper equipment under sections 321.383, 321.384, 321.385, 321.386, 321.398, 321.402, 321.403, 321.404, 321.409, 321.419, 321.420, 321.423, 321.430, and 321.433, the scheduled fine is twenty dollars. For violations of sections 321.247 and 321.421, the scheduled fine is one hundred dollars.

Sec. 26. Section 805.8, subsection 2, paragraph h, Code Supplement 1999, is amended to read as follows:
h. For operating, passing, turning, and standing violations under section 321.236, subsections 3, 4, 9, and 12, section 321.275, subsections 1 through 7, sections 321.295, 321.297, 321.299, 321.303, 321.304, subsections 1 and 2, sections 321.305, 321.306, 321.311, 321.312, 321.314, 321.315, 321.316, 321.318, 321.323, 321.340, 321.353, 321.354, 321.363, 321.365, ~~321.366,~~ 321.368, 321.382, and 321.395, the scheduled fine is fifteen dollars. For violations of section 321.302, the scheduled fine is one hundred dollars.

Sec. 27. Section 805.8, subsection 2, paragraph i, Code Supplement 1999, is amended to read as follows:
i. For violations involving failures to yield or to observe pedestrians and other vehicles under section 321.257, subsection 2, sections 321.288, 321.298, 321.307, 321.308, 321.313, 321.319, 321.320, 321.321, 321.329, 321.333, and 321.367, the scheduled fine is twenty dollars. For violations of section 321.327, the scheduled fine is one hundred dollars.

Sec. 28. Section 805.8, subsection 2, paragraph m, Code Supplement 1999, is amended to read as follows:

m. For height, weight, length, width, and load violations and towed vehicle violations under sections 321.309, 321.310, 321.381, 321.394, 321.437, 321.454, 321.455, 321.456, 321.457, 321.458, 321.461, and 321.462, the scheduled fine is twenty-five dollars. For weight violations under sections 321.459 and 321.466, the scheduled fine is twenty dollars for each two thousand pounds or fraction thereof of overweight. For abandoned vehicles under section 321.91, the scheduled fine is one hundred dollars.

Sec. 29. Section 805.8, subsection 2, paragraph o, Code Supplement 1999, is amended to read as follows:

o. For violation of registration provisions under section 321.17; violation of intrastate hauling on foreign registration under section 321.54; improper operation or failure to register under section 321.55; and violation of requirement for display of registration or plates under section 321.98, the scheduled fine is twenty dollars. For fraudulent use of registration violations under section 321.99 and violations of antique car registration requirements under section 321.115, the scheduled fine is one hundred dollars.

Sec. 30. Section 805.8, subsection 2, paragraph v, Code Supplement 1999, is amended to read as follows:

v. Violations of the schedule of axle and tandem axle and gross or group of axle weight violations in section 321.463 shall be scheduled violations subject to the provisions, procedures and exceptions contained in sections 805.6 to 805.11, irrespective of the amount of the fine under that schedule. Violations of the schedule of weight violations shall be chargeable, where the fine charged does not exceed one ~~hundred~~ thousand dollars, only by uniform citation and complaint. Violations of the schedule of weight violations, where the fine charged exceeds one ~~hundred~~ thousand dollars shall, when the violation is admitted and section 805.9 applies, be chargeable upon uniform citation and complaint, indictment, or county attorney's information, but otherwise, shall be chargeable only upon indictment or county attorney's information.

In all cases of charges under the schedule of weight violations, the charge shall specify the amount of fine charged under the schedule. Where a defendant is convicted and the fine under the foregoing schedule of weight violations exceeds one ~~hundred~~ thousand dollars, the conviction shall be of an indictable offense although section 805.9 is employed and whether the violation is charged upon uniform citation and complaint, indictment, or county attorney's information.

Sec. 31. Section 805.8, subsection 2, paragraph w, Code 1999, is amended to read as follows:

w. For failure to have a valid license or permit for operating a motor vehicle on the highways of this state pursuant to section 321.174, or permitting an unauthorized minor to drive in violation of section 321.219, or permitting an unauthorized person to drive in violation of section 321.220, the scheduled fine is one hundred dollars.

Sec. 32. Section 805.8, subsection 2, paragraph ad, Code Supplement 1999, is amended to read as follows:

ad. For violations of section 321.57, the scheduled fine is fifty dollars. For violations of section 321.62, the scheduled fine is fifty dollars. For violations of section 321.47, the scheduled fine is one hundred dollars.

Sec. 33. Section 805.8, subsection 2, Code Supplement 1999, is amended by adding the following new paragraph:

NEW PARAGRAPH. ai. For violations of section 321.366, the scheduled fine is one hundred dollars.

Sec. 34. Section 805.8, subsection 4, paragraph b, Code Supplement 1999, is amended to read as follows:

b. For operating violations under section 321G.9, subsections 1, 2, 3, 4, 5 and 7, sections 321G.11, and 321G.13, subsections 4 and 9, the scheduled fine is twenty dollars. For violations of section 321.234A, the scheduled fine is one hundred dollars.

Sec. 35. Section 805.8, subsection 5, paragraph e, Code Supplement 1999, is amended to read as follows:

e. For violations of sections 481A.85, 481A.93, 481A.95, 481A.120, 481A.137, 481B.5, 482.3, ~~and~~ 482.9, 482.15, and 483A.42, the scheduled fine is one hundred dollars.

Approved May 19, 2000

CHAPTER 1204

INCARCERATION IN OTHER JURISDICTIONS — CREDIT AGAINST SENTENCE

S.F. 2246

AN ACT relating to the accumulation of credit upon an inmate's sentence for Iowa inmates incarcerated in another jurisdiction.

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

Section 1. Section 903A.5, unnumbered paragraph 2, Code Supplement 1999, is amended to read as follows:

An inmate shall not receive credit upon the inmate's sentence for time spent in custody in another state resisting return to Iowa following an escape~~, or for time served~~. However, an inmate may receive credit upon the inmate's sentence while incarcerated in an institution or jail of another jurisdiction during any period of time the person is receiving credit upon a sentence of that other jurisdiction.

Approved May 19, 2000

CHAPTER 1205

TAXATION OF PROPERTY USED BY IOWA NATIONAL GUARD

S.F. 2444

AN ACT relating to the taxation of property used by the Iowa national guard.

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

Section 1. Section 427.1, subsection 2, Code Supplement 1999, is amended to read as follows:

2. MUNICIPAL AND MILITARY PROPERTY. The property of a county, township, city, school corporation, levee district, drainage district, or ~~military company of the state of~~ the

Iowa national guard, when devoted to public use and not held for pecuniary profit, except property of a municipally owned electric utility held under joint ownership and property of an electric power facility financed under chapter 28F which shall be subject to taxation under chapter 437A and facilities of a municipal utility that are used for the provision of local exchange services pursuant to chapter 476, but only to the extent such facilities are used to provide such services, which shall be subject to taxation under chapter 433, except that section 433.11 shall not apply. The exemption for property owned by a city or county also applies to property which is operated by a city or county as a library, art gallery or museum, conservatory, botanical garden or display, observatory or science museum, or as a location for holding athletic contests, sports or entertainment events, expositions, meetings or conventions, or leased from the city or county for any such purposes, or leased from the city or county by the Iowa national guard or by a federal agency for the benefit of the Iowa national guard when devoted for public use and not for pecuniary profit. Food and beverages may be served at the events or locations without affecting the exemptions, provided the city has approved the serving of food and beverages on the property if the property is owned by the city or the county has approved the serving of food and beverages on the property if the property is owned by the county.

Approved May 19, 2000

CHAPTER 1206

PERSONS WITH DISABILITIES — WHEELCHAIR PARKING CONES — TRAILER REGISTRATION PLATES

H.F. 620

AN ACT relating to persons with disabilities by providing for the use of wheelchair parking cones, providing for persons with disabilities registration plates for trailers, and providing for penalties.

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

Section 1. Section 321.34, subsection 14, Code Supplement 1999, is amended to read as follows:

14. PERSONS WITH DISABILITIES SPECIAL PLATES. An owner referred to in subsection 12 or an owner of a trailer used to transport a wheelchair who is a person with a disability, or who is the parent or guardian of a child who resides with the parent or guardian owner and who is a person with a disability, as defined in section 321L.1, may, upon written application to the department, order special registration plates with a persons with disabilities processed emblem designed by the department bearing the international symbol of accessibility. The special registration plates with a persons with disabilities processed emblem shall only be issued if the application is accompanied with a statement from a physician licensed under chapter 148, 149, 150, or 150A, a physician assistant licensed under chapter 148C, an advanced registered nurse practitioner licensed under chapter 152, or a chiropractor licensed under chapter 151, written on the physician's, physician assistant's, nurse practitioner's, or chiropractor's stationery, stating the nature of the applicant's or the applicant's child's disability and such additional information as required by rules adopted by the department, including proof of residency of a child who is a person with a disability. If the application is approved by the department the special registration plates with a per-

sons with disabilities processed emblem shall be issued to the applicant. There shall be no fee in addition to the regular annual registration fee for the special registration plates with a persons with disabilities processed emblem. The authorization for special registration plates with a persons with disabilities processed emblem shall not be renewed without the applicant furnishing evidence to the department that the owner of the ~~motor~~ vehicle or the owner's child is still a person with a disability as defined in section 321L.1. An owner who has a child who is a person with a disability shall provide satisfactory evidence to the department that the child with a disability continues to reside with the owner. The registration plates with a persons with disabilities processed emblem shall be surrendered in exchange for regular registration plates as provided in subsection 12 when the owner of the ~~motor~~ vehicle or the owner's child no longer qualifies as a person with a disability as defined in section 321L.1 or when the owner's child who is a person with a disability no longer resides with the owner.

Sec. 2. Section 321L.2, subsection 1, paragraph a, subparagraph (1), Code 1999, is amended to read as follows:

(1) Persons with disabilities registration plates. An applicant may order persons with disabilities registration plates pursuant to section 321.34. An applicant may order a persons with disabilities registration plate for a trailer used to transport a wheelchair pursuant to section 321.34 in addition to persons with disabilities registration plates ordered by the applicant for a motor vehicle used to tow such a trailer pursuant to section 321.34.

Sec. 3. Section 321L.2, subsection 3, paragraph b, subparagraph (1), Code 1999, is amended to read as follows:

(1) A statement printed on it as follows: "Unauthorized use of this placard as indicated in Iowa Code chapter 321L may result in a fine, invalidation of the placard, or revocation of the right to use the placard. This placard shall be displayed only when the vehicle is parked in a persons with disabilities parking space or in a parking space not designated as a persons with disabilities parking space if a wheelchair parking cone is used pursuant to Iowa Code section 321L.2A."

Sec. 4. Section 321L.2A, Code 1999, is amended to read as follows:

321L.2A WHEELCHAIR PARKING CONE.

1. A person issued a persons with disabilities parking permit under section 321L.2 who uses a wheelchair due to a disability that renders the person permanently unable to walk, may park in a persons with disabilities parking space, or a parking space not designated as a persons with disabilities parking space, and reserve up to an eight foot space adjacent to the motor vehicle for the purpose of exiting and entering the motor vehicle if all of the following conditions are met:

a. The person places a wheelchair parking cone within eight feet of the motor vehicle's entry.

b. The person displays the persons with disabilities parking permit in the motor vehicle as described in section 321L.4.

c. The motor vehicle and the wheelchair parking cone do not obstruct an aisle, street, or roadway so that other vehicles are unable to pass through the aisle, street, or roadway.

d. The parking space is provided by the state, a political subdivision of the state, or an entity providing nonresidential parking.

e. The person carries in the motor vehicle a copy of the statement from a physician, physician's assistant, advanced registered nurse practitioner, or chiropractor which accompanied the person's application for persons with disabilities registration plates under section 321.34 or other persons with disabilities parking permit under section 321L.2 and which indicates the person is permanently unable to walk. The person shall show the copy of the statement to any peace officer upon request.

2. A person issued a persons with disabilities parking permit who does not comply with the requirements of subsection 1 when using a wheelchair parking cone commits a misdemeanor punishable by a scheduled fine under section 805.8, subsection 2, paragraph "a".

3. A person shall not interfere with a wheelchair parking cone properly placed under subsection 1. A violation of this subsection is a misdemeanor punishable by a scheduled fine under section 805.8, subsection 2, paragraph "a".

4. The department, upon the request of a person issued a persons with disabilities parking permit under section 321L.2 who uses a wheelchair, shall provide the person with a list of names and addresses of vendors who sell wheelchair parking cones bearing the international symbol of accessibility and the words "wheelchair parking space".

5. The department shall adopt rules as necessary to administer this section.

Sec. 5. Section 321L.4, subsections 1 and 2, Code 1999, are amended to read as follows:

1. A persons with disabilities parking permit shall be displayed in a motor vehicle as a removable windshield placard or on a ~~motor~~ vehicle as a plate or sticker as provided in section 321L.2 when being used by a person with a disability, either as an operator or passenger. Each removable windshield placard shall be of uniform design and fabricated of durable material, suitable for display from within the passenger compartment of a motor vehicle, and readily transferable from one vehicle to another. The placard shall only be displayed when the motor vehicle is parked in a persons with disabilities parking space, except as provided in section 321L.2A.

2. The use of a persons with disabilities parking space, located on either public or private property as provided in sections 321L.5 and 321L.6, by an operator of a ~~motor~~ vehicle not displaying a persons with disabilities parking permit; by an operator of a ~~motor~~ vehicle displaying a persons with disabilities parking permit but not being used by a person issued a permit or being transported in accordance with section 321L.2, subsection 1, paragraph "b"; or by a ~~motor~~ vehicle in violation of the rules adopted by the department under section 321L.8, constitutes improper use of a persons with disabilities parking permit, which is a misdemeanor for which a scheduled fine shall be imposed upon the owner, operator, or lessee of the ~~motor~~ vehicle or the person to whom the persons with disabilities parking permit is issued. The scheduled fine for each violation shall be as established in section 805.8, subsection 2, paragraph "a". Proof of conviction of two or more violations involving improper use of a persons with disabilities parking permit is grounds for revocation by the court or the department of the holder's privilege to possess or use the persons with disabilities parking permit.

Sec. 6. Section 805.8, subsection 2, paragraph a, Code Supplement 1999, is amended to read as follows:

a. For parking violations under sections 321.236, 321.239, 321.358, 321.360, and 321.361, the scheduled fine is five dollars. The scheduled fine for a parking violation of section 321.236 increases in an amount up to ten dollars, as authorized by ordinance pursuant to section 321.236, subsection 1, paragraph "a", if the parking violation is not paid within thirty days of the date upon which the violation occurred. For purposes of calculating the unsecured appearance bond required under section 805.6, the scheduled fine shall be five dollars. However, violations charged by a city or county upon simple notice of a fine instead of a uniform citation and complaint as permitted by section 321.236, subsection 1, paragraph "a", are not scheduled violations, and this section shall not apply to any offense charged in that manner. For a parking violation under section 321.362 or 461A.38 the scheduled fine is ten dollars. For a parking violation under section 321L.2A, subsection 2, the scheduled fine is twenty dollars. For interference with a wheelchair parking cone under section 321L.2A, subsection 3, or a parking violation under section 321L.4, subsection 2, the scheduled fine is one hundred dollars.

Sec. 7. VALIDITY OF EXISTING PLACARDS. Notwithstanding the amendment to section 321L.2, subsection 3, paragraph "b", subparagraph (1), by this Act, a person with disabilities windshield placard issued prior to July 1, 2000, may be used until it otherwise becomes invalid.

Approved May 19, 2000

CHAPTER 1207

SALES AND USE TAXES — NONPROFIT HOSPITAL CONSTRUCTION CONTRACTS

H.F. 2563

AN ACT exempting from the sales and use taxes the gross receipts from all sales of goods and services used in fulfillment of a construction contract for a nonprofit hospital, providing for refunds, and including an effective and retroactive applicability date provision.

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

Section 1. Section 422.45, Code Supplement 1999, is amended by adding the following new subsection:

NEW SUBSECTION. 54B. The gross receipts from all sales of goods, wares, or merchandise, or from services rendered, furnished, or performed which are used in the fulfillment of a written construction contract with a nonprofit hospital licensed pursuant to chapter 135B if all of the following apply:

a. The sales and delivery of the goods, wares, or merchandise, or the services rendered, furnished, or performed occurred between July 1, 1998, and December 31, 2001.

b. The written construction contract was entered into prior to December 31, 1999, or bonds to fund the construction were issued prior to December 31, 1999.

c. The sales or services were purchased by a contractor as the agent for the hospital or were purchased directly by the hospital.

Sec. 2. REFUNDS. Refunds of taxes, interest, or penalties which arise from claims resulting from the enactment of section 422.45, subsection 54B, in this Act, for sales or services occurring between July 1, 1998, and December 31, 2001, shall be limited to twenty-five thousand dollars in the aggregate and shall not be allowed unless refund claims are filed prior to April 1, 2002, notwithstanding any other provision of law. If the amount of claims totals more than twenty-five thousand dollars in the aggregate, the department of revenue and finance shall prorate the twenty-five thousand dollars among all claimants in relation to the amounts of the claimants' valid claims.

Sec. 3. EFFECTIVE DATE AND RETROACTIVE APPLICABILITY PROVISION. This Act, being deemed of immediate importance, takes effect upon enactment and applies retroactively to July 1, 1998.

Approved May 19, 2000

CHAPTER 1208

TOBACCO SETTLEMENT AUTHORITY ACT

H.F. 2579

AN ACT creating a tobacco settlement authority Act, authorizing the issuance of bonds, providing for a repeal, and providing an effective date.

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

Section 1. NEW SECTION. 12E.1 TITLE.
This chapter shall be known and may be cited as the "Tobacco Settlement Authority Act".

Sec. 2. NEW SECTION. 12E.3 DEFINITIONS.
As used in this chapter, unless the context otherwise requires:
1. "Authority" means the tobacco settlement authority created in this chapter.
2. "Board" means the governing board of the authority.
3. "Bonds" means bonds, notes, and other obligations and financing arrangements issued or entered into by the authority pursuant to this chapter.
4. "Financial institution" means a bank or credit union as defined in section 12C.1.
5. "Master settlement agreement" means the master settlement agreement as defined in section 453C.1.
6. "Notes" means notes, warrants, loan agreements, and all other forms of evidence of indebtedness authorized under this chapter.
7. "Program plan" means the tobacco settlement program plan established in this chapter to provide for the implementation of the findings and purposes of this chapter.[1]
8. "Qualified investments" means investments of the authority authorized by this chapter.
9. "Sales agreement" means any agreement authorized pursuant to this chapter in which the state provides for the sale of all or a portion of the state's share to the authority.
10. "State's share" means all of the state's monetary rights and interests, all rights of enforcement, and all rights necessary and convenient for enforcement of those monetary rights and interests in the master settlement agreement.
11. "Tobacco settlement endowment fund" means the tobacco settlement endowment fund created in section 12.65.
12. "Tobacco settlement trust fund" means the tobacco settlement trust fund created in this chapter.

Sec. 3. NEW SECTION. 12E.4 TOBACCO SETTLEMENT AUTHORITY — CREATED — PURPOSES — POWERS — RESTRICTIONS.
1. A tobacco settlement authority is created and constitutes a public instrumentality and agency of the state, separate and distinct from the state, exercising public and essential governmental functions.
2. The purposes of the authority include all of the following:
a. To implement and administer the program plan and to establish a stable source of revenue to be used for the purposes designated in section 12.65.
b. To enter into sales agreements.
c. To issue bonds and enter into funding options, consistent with this chapter, including refunding and refinancing its debt and obligations.
d. To sell, pledge, or assign, as security, all or a portion of the state's share, to provide for and secure the issuance of its bonds.
e. To invest funds available under this chapter to provide for a source of revenue in accordance with the program plan.
f. To enter into agreements with the state for the periodic distribution of amounts due the state under any sales agreement.

[1] See chapter 1232, §13, 15 herein

g. To refund and refinance the authority's debts and obligations, and to manage its funds, obligations, and investments as necessary and if consistent with its purpose.

h. To sell, pledge, or assign, as security or consideration, all or a portion of the state's share to implement alternative funding options.

i. To implement the purposes of this chapter as stated in the findings of the general assembly in section 12E.2.[2]

3. The authority shall invest its funds and accounts in accordance with this chapter and shall not take action or invest in any manner that would cause the state to become a stockholder in any corporation or that would cause the state to assume or agree to pay the debt or liability of any corporation in violation of the United States Constitution or the Constitution of the State of Iowa.

4. The authority shall not create any obligation of this state or any political subdivision of this state within the meaning of any constitutional or statutory debt limitation.

5. The authority shall not pledge the credit or taxing power of this state or any political subdivision of this state, or make its debts payable out of any moneys except those of the authority specifically pledged for their payment.

6. The authority shall not pledge or make its debts payable out of the moneys deposited in the tobacco settlement trust fund.

Sec. 4. NEW SECTION. 12E.5 POWERS NOT RESTRICTED — LAW COMPLETE IN ITSELF.

This chapter shall not restrict or limit the powers which the authority has under any other law of this state, but is cumulative as to any such powers. A proceeding, notice, or approval is not required for the creation of the authority or the issuance of obligations or an instrument as security, except as provided in this chapter.

Sec. 5. NEW SECTION. 12E.6 GOVERNING BOARD.

1. The powers of the authority are vested in and shall be exercised by a board consisting of the treasurer of state, the auditor of state, and the director of the department of management. Notwithstanding the provisions of section 12.30, subsection 2, regarding ex officio nonvoting status, the treasurer of state shall act as a voting member of the authority.

2. Two members of the board constitute a quorum.

3. The members shall elect a chairperson, vice chairperson, and secretary, annually, and other officers as the members determine necessary. The treasurer of state shall serve as treasurer of the authority.

4. Meetings of the board shall be held at the call of the chairperson or when a majority of the members so requests.

5. The members of the board shall not receive compensation by reason of their membership on the board.

Sec. 6. NEW SECTION. 12E.7 STAFF — ASSISTANCE BY STATE OFFICERS, AGENCIES, AND DEPARTMENTS.

1. The staff of the office of the treasurer of state shall also serve as staff of the authority under the supervision of the treasurer.

2. State officers, agencies, and departments may render services to the authority within their respective functions, as requested by the authority.

Sec. 7. NEW SECTION. 12E.8 LIMITATION OF LIABILITY.

Members of the board and persons acting in the authority's behalf, while acting within the scope of their employment or agency, are not subject to personal liability resulting from carrying out the powers and duties conferred on them under this chapter.

Sec. 8. NEW SECTION. 12E.9 GENERAL POWERS.

1. The authority has all the general powers necessary to carry out its purposes and duties and to exercise its specific powers, including but not limited to all of the following powers:

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[2] See chapter 1232, §14, 15 herein

a. The power to issue its bonds and to enter into other funding options as provided in this chapter.

b. The power to have perpetual succession as a public instrumentality and agency of the state, until dissolved in accordance with this chapter.

c. The power to sue and be sued in its own name.

d. The power to make and execute agreements, contracts, and other instruments, with any public or private person, in accordance with this chapter.

e. The power to hire and compensate legal counsel, notwithstanding chapter 13.

f. The power to hire investment advisors and other persons as necessary to fulfill its purpose.

g. The power to invest or deposit moneys of the authority in any manner determined by the authority, notwithstanding chapter 12B or 12C.

h. The power to procure insurance, other credit enhancements, and other financing arrangements to fulfill its purposes under this chapter, including but not limited to municipal bond insurance and letters of credit.

i. The power to accept appropriations, gifts, grants, loans, or other aid from public or private entities.

j. The power to adopt rules, consistent with this chapter and in accordance with chapter 17A, as the board determines necessary.

2. The authority is exempt from the requirements of chapter 18.

Sec. 9. NEW SECTION. 12E.10 AUTHORIZATION OF THE SALE OF RIGHTS IN THE MASTER SETTLEMENT AGREEMENT.

1. Subject to the program plan as authorized by a constitutional majority of each house of the general assembly and approved by the governor, the governor shall sell and assign all or a portion of the state's share to the authority. The attorney general shall assist the governor in the preparation and review of all necessary documentation to effect such a sale by the date specified in the program plan. The terms and conditions of the sale shall be established in the program plan in order to accomplish the purpose and intent of this chapter.

2. The sale made under this section shall be irrevocable during the time when bonds are outstanding under this chapter, and shall be a part of the contractual obligation owed to the bondholders. The sale shall constitute and be treated as a true sale and absolute transfer of the property so transferred and not as a pledge or other security interest for any borrowing. The characterization of such a sale as an absolute transfer shall not be negated or adversely affected by the fact that only a portion of the state's share is being sold, or by the state's acquisition or retention of an ownership interest in the residual assets.

3. On or after the effective date of such sale, the state shall not have any right, title, or interest in the portion of the master settlement agreement sold and such portion shall be the property of the authority and not the state, and shall be owned, received, held, and disbursed by the authority or its trustee or assignee, and not the state.

4. On or before the effective date of the sale, the state shall notify the escrow agent under the master settlement agreement of the sale and shall instruct the escrow agent that subsequent to that date, all payments constituting the portion sold shall be made directly to the authority.

5. The authority, the treasurer of state, and the attorney general shall report to the legislative council and the executive council on or before the date specified in the program plan, advising them of the accomplishment of the sale, its terms and conditions.

Sec. 10. NEW SECTION. 12E.11 TOBACCO SETTLEMENT PROGRAM PLAN.

1. The authority shall establish a tobacco settlement program plan, in accordance with this chapter, to provide the state with a secure and stable source of revenue for purposes designated by section 12.65. The authority shall submit a report of the proposed program plan to the legislative council and the executive council. A program plan shall not be implemented unless implementation of the program plan is authorized by a constitutional majority of each house of the general assembly and approved by the governor.

2. The program plan shall include but is not limited to inclusion of all of the following:

a. The structure of any sales agreement between the state and the authority.

b. The terms of payment of amounts due from the authority to the state.

c. The investment criteria of funds of the authority including those held for payment to the state in accordance with this chapter.

d. An analysis of alternative funding options, with or without the use of the authority and issuance of bonds.

e. Recommendations to the governor and the general assembly regarding any necessary changes in existing law relating to this chapter.

f. A date by which any sale from the state to the authority of all or a portion of the state's share should be consummated, the specified period during which the state shall be paid, and the date by which the bonds or alternative funding options should be concluded.

g. The procedure to be used in amending the program plan.

h. Any other terms or provisions necessary to implement this chapter.

3. This chapter shall not be interpreted to authorize the state, the governor, or the authority to enter into any sales agreement or to issue bonds or implement a program plan prior to authorization of the program plan by a constitutional majority of each house of the general assembly and approval by the governor.

Sec. 11. NEW SECTION. 12E.12 AUTHORITY — BONDS.

1. The authority may issue bonds and use the proceeds from the bonds for the purpose of providing a secure and stable source of funding to the state, consistent with the purposes of this chapter. Bonds issued pursuant to this section may be secured by a pledge of all or a portion of the state's share and any moneys derived from the state's share, and any other sources available to the authority with the exception of moneys in the tobacco settlement trust fund. The authority may also issue refunding bonds, including advance refunding bonds, for the purpose of refunding previously issued bonds, and may issue other types of bonds, debt obligations, and financing arrangements necessary to fulfill its purposes or the purposes of this chapter.

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

3. Bonds issued by the authority are payable solely and only out of the moneys, assets, or revenues pledged by the authority and are not a general obligation or indebtedness of the authority or an obligation or indebtedness of the state or any subdivision of the state. The authority shall not pledge the credit or taxing power of the state or any political subdivision of the state, or create a debt or obligation of the state, or make its debts payable out of any moneys except those of the authority, excluding those moneys deposited in the tobacco settlement trust fund.

4. Bonds shall state on their face that they are payable both as to principal and interest solely out of the assets of the authority pledged for their purpose and do not constitute an indebtedness of the state or any political subdivision of the state, are secured solely by and payable solely from receipts under the master settlement agreement, constitute neither a general, legal, or moral obligation of the state or any of its political subdivisions, and that the state has no obligation or intention to satisfy any deficiency or default of any payment of the bonds.

5. Any amount pledged by the authority to be received under the master settlement agreement shall be valid and binding at the time the pledge is made. Receipts so pledged and then or thereafter received by the authority shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act. The lien of any such pledge shall be

valid and binding as against all parties having claims of any kind against the authority, whether such parties have notice of the lien. Notwithstanding any other provision to the contrary, the resolution of the authority or any other instrument by which a pledge is created need not be recorded or filed to perfect such pledge.

6. The proceeds of bonds issued by the authority and not required for deposit in the tobacco settlement trust fund may be invested in any manner approved by the board and specified in the trust indenture or resolution pursuant to which the bonds must be issued, notwithstanding any other provision to the contrary.

7. The bonds shall comply with all of the following:

a. The bonds shall be in a form, issued in denominations, executed in a manner, and payable over terms and with rights of redemption, as the board prescribes in the resolution authorizing their issuance.

b. The bonds shall be fully negotiable instruments under the laws of this state and may be sold at prices, at public or private sale, and in a manner as prescribed by the board. Chapters 73A, 74, 74A, and 75 shall not apply to the sale or issuance of bonds under this chapter.

c. The bonds shall be 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 resolution of the board authorizing their issuance.

8. The bonds issued under this chapter are securities in which insurance companies and associations and other persons engaged in the business of insurance; banks, trust companies, savings associations, savings and loan associations, and investment companies; administrators, guardians, executors, trustees, and other fiduciaries; and other persons authorized to invest in bonds or other obligations of the state may properly and legally invest funds, including capital, in their control or belonging to them.

9. Bonds must be authorized by a resolution of the board. However, a resolution authorizing the issuance of bonds may delegate to an officer of the authority the power to negotiate and fix the details of an issue of bonds by an appropriate certificate of the authorized officer.

10. To comply with federal law with respect to the issuance of bonds, the interest of which is tax-exempt pursuant to the Internal Revenue Code, the authority may issue a certain series of bonds, or periodically issue several series of bonds, so that interest on the bonds remains exempt from federal taxation or to comply with the purposes specified in this chapter.

Sec. 12. NEW SECTION. 12E.13 TOBACCO SETTLEMENT TRUST FUND — ESTABLISHED — INVESTMENT — LIABILITY.

1. A tobacco settlement trust fund is established, separate and apart from all other public moneys or funds of the state, under the control of the authority. The fund shall consist of moneys paid to the authority and not pledged to the payment of bonds or otherwise obligated. Such moneys shall include but are not limited to payments received from the master settlement agreement which are not pledged to the payment of bonds or which are subsequently released from a pledge to the payment of any bonds; payments which, in accordance with any sales agreement with the state, are to be paid to the state and not pledged to the bonds, including that portion of the proceeds of any bonds designated for purchase of all or a portion of the state's share, which are designated for deposit in the fund, together with all interest, dividends, and rents on the bonds; and all securities or investment income and other assets acquired by and through the use of the moneys belonging to the fund and any other moneys deposited in the fund. Moneys in the fund are to be used solely and only for the payment of all amounts due and to become due to the state, and shall not be used for any other purpose. Such moneys shall not be available for the payment of any claim against the authority or any debt or obligation of the authority.

2. The treasurer of the authority shall act as custodian and trustee of the fund and shall administer the fund as directed by the authority. The treasurer of the authority shall do all of the following:

a. Hold the funds.

b. Invest the portion of the funds which, as deemed by the authority, is not necessary for current payment of sums to the state under this chapter or the program plan.

c. Disburse funds, if directed by the authority.

d. Sell any securities or other property held by the fund and reinvest the proceeds as directed by the authority, when deemed advisable by the authority for the protection of the fund or the preservation of the value of the investment. Such sale of securities or other property held by the fund shall only be made with the advice of the board in the manner and to the extent provided in this chapter with regard to the purchase of investments.

e. Subscribe, at the direction of the authority, for the purchase of securities for future delivery in anticipation of future income. Such securities shall be paid for by such anticipated income or from funds from the sale of securities or other property held by the fund.

f. Pay for securities, as directed by the authority, on the receipt of the purchasing entity's paid statement or paid confirmation of purchase.

3. The authority shall execute the disposition and investment of moneys in the fund in accordance with the investment policy and goal statement established by the board.

a. In establishing the investment policy and goal statement of the fund, the standard utilized by the board shall be the exercise of judgment and care, under the prevailing circumstances, which persons of prudence, discretion, and intelligence exercise in the management of their own financial affairs, not for the purpose of speculation, but with regard to the permanent disposition of the funds, considering the probable income, as well as the probable safety, of their capital.

b. Within the limitations of the standard prescribed in this subsection and the program plan, the treasurer of the authority, the authority, and the board may acquire and retain any type of property or investment which persons of prudence, discretion, and intelligence would acquire or retain for their own financial interests.

c. The authority and the board shall give appropriate consideration to those facts and circumstances that the authority and board know or should know are relevant to the particular investment or investment policy involved, including the role the investment plays in the total value of the fund. For the purposes of this paragraph, appropriate consideration includes, but is not limited to, a determination by the authority and the board that the particular investment or investment policy is reasonably designed to further the purposes of the tobacco settlement program plan, taking into consideration the risk of loss and the opportunity for gain or other return associated with the investment or investment policy and consideration of all of the following as they relate to the tobacco settlement trust fund:

(1) The composition of the fund with regard to diversification.

(2) The liquidity and current return of the investments in the fund relative to the anticipated cash flow requirements of the program plan.

(3) The projected return of the investments relative to the funding objectives of the program plan.

d. Investments of moneys in the funds are not subject to sections 73.15 through 73.21.

4. The authority, its staff, members of the board, and the treasurer of the authority are not personally liable for actions or omissions under this chapter that do not involve malicious or wanton misconduct even if those actions or omissions violate the standards established in this section.

5. Except as provided in this section, if there is loss to the fund, the treasurer, the authority, the board, and the staff are not personally liable, and the loss shall be charged against the fund. The amount required to cover a loss may be paid from the fund.

6. a. Expenses incurred in the sale and purchase of securities belonging to the fund shall be charged to the fund, and the amount required for the investment management expenses may be paid from the fund, subject to the limitations stated in this subsection. The amount paid for investment management expenses for a fiscal year under this section shall not exceed the reasonable and customary charge to similar funds for similar purposes. The authority shall report the investment management expenses for a fiscal year as a percent of

the market value of the fund in the annual report to the governor submitted pursuant to section 12E.16.

b. A person who has entered into a contract with the authority for investment management purposes shall meet the requirements for doing business in Iowa sufficient to be subject to taxation under the rules of the department of revenue and finance.

7. All moneys paid to or deposited in the fund are available to the authority to be used for the exclusive purpose of the program plan in accordance with this chapter, including but not limited to all of the following:

a. For payment of amounts due to the state pursuant to the terms of the sales agreements entered into between the state and the authority.

b. For payment of other amounts provided for in the program plan.

c. For payment of the costs of administering the program plan and the costs of the authority.

Sec. 13. NEW SECTION. 12E.14 MONEYS OF THE AUTHORITY.

1. Moneys of the authority, except as otherwise provided in this chapter or specified in a trust indenture or resolution pursuant to which the bonds are issued, shall be paid to the authority and shall be deposited in a financial institution designated by the authority. The moneys shall be withdrawn on the order of the authority or its designee. Deposits shall be secured in the manner determined by the authority.

2. The auditor of state or the auditor's designee, which may include a person hired by the auditor with the approval of the board, may periodically examine the accounts and books, including its receipts, disbursements, contracts, leases, sinking funds, investments, and any other records and papers relating to its financial standing. The authority shall pay the costs of any such examination.

3. The authority may contract with the holders of its bonds relating to the custody, collection, security, investment, and payment of moneys of the authority, and relating to the moneys held in trust or otherwise for payment of bonds, with the exception of moneys in the tobacco settlement trust fund. Moneys held in trust or otherwise for the payment of bonds or in any way to secure bonds and deposits of the moneys may be secured in the same manner as moneys of the authority, and financial institutions and trust companies may provide security for the deposits.

4. The authority shall submit to the governor, the attorney general, the auditor of state, the department of management, and the legislative fiscal bureau, within thirty days of its receipt, a copy of the report of every external examination of the books and accounts of the authority, other than copies of the reports of examinations of the auditor of state.

5. All moneys of the authority or moneys held by the authority shall be invested and held in the name of the authority, whether they are held for the benefit, security, or future payment to holders of bonds or to the state. All such moneys and investments shall be considered moneys and investments of the authority.

Sec. 14. NEW SECTION. 12E.15 EXEMPTION FROM COMPETITIVE BID LAWS.

The authority and contracts entered into by the authority in carrying out its public and essential governmental functions are exempt from the laws of the state which provide for competitive bids and hearings in connection with contracts, except as provided in section 12.30.

Sec. 15. NEW SECTION. 12E.16 ANNUAL REPORT.

1. The authority shall submit to the governor, the general assembly, and the attorney general, on or before December 31, annually, a report including information regarding all of the following:

a. Its operations and accomplishments.

b. Its receipts and expenditures during the previous fiscal year, in accordance with classifications it establishes for its operating and capital accounts.

c. Its assets and liabilities at the end of the previous fiscal year and the status of reserve, special, and other funds.

d. A schedule of its bonds outstanding at the end of the previous fiscal year, and a statement of the amounts redeemed and issued during the previous fiscal year.

e. A statement of its proposed and projected activities.

f. Recommendations to the governor and the general assembly, as deemed necessary.

g. Any other information deemed necessary.

2. The annual report shall identify performance goals of the authority, and clearly indicate the extent of progress, during the reporting period, in attaining these goals.

Sec. 16. NEW SECTION. 12E.17 BANKRUPTCY.

Prior to the date which is three hundred sixty-six days after which the authority no longer has any bonds outstanding, the authority is prohibited from filing a voluntary petition under chapter 9 of the federal bankruptcy code or such corresponding chapter or section as may, from time to time, be in effect, and a public official or organization, entity, or other person shall not authorize the authority to be or become a debtor under chapter 9 or any successor or corresponding chapter or sections during such periods. The provisions of this section shall be part of any contractual obligation owed to the holders of bonds issued under this chapter. Any such contractual obligation shall not subsequently be modified by state law, during the period of the contractual obligation.

Sec. 17. NEW SECTION. 12E.18 DISSOLUTION OF THE AUTHORITY.

The authority shall dissolve no later than two years from the date of final payment of all outstanding bonds and the satisfaction of all outstanding obligations of the authority, except to the extent necessary to remain in existence to fulfill any outstanding covenants or provisions with bondholders or third parties made in accordance with this chapter. Upon dissolution of the authority, all assets of the authority shall be returned to the state and shall be deposited in the tobacco settlement endowment fund, unless otherwise directed by the general assembly, and the authority shall execute any necessary assignments or instruments, including any assignment of any right, title, or ownership to the state for receipt of payments under the master settlement agreement.

Sec. 18. NEW SECTION. 12E.19 LIBERAL INTERPRETATION.

This chapter, being deemed necessary for the welfare of the state and its people, shall be liberally construed to effect its purpose.

Sec. 19. Section 12.30, subsection 1, paragraph a, Code 1999, is amended to read as follows:

a. "Authority" means a department, or public or quasi-public instrumentality of the state including, but not limited to, the authority created under chapter 12E, 16, 16A, 175, 257C, 261A, or 327I, which has the power to issue obligations, except that "authority" does not include the state board of regents or the Iowa finance authority to the extent it acts pursuant to chapter 260C.

Sec. 20. Section 12B.10, subsection 6, Code 1999, is amended by adding the following new paragraph:

NEW PARAGRAPH. i. Investments by the tobacco settlement authority governed by chapter 12E.

Sec. 21. Section 12B.10A, subsection 6, Code 1999, is amended by adding the following new paragraph:

NEW PARAGRAPH. i. The tobacco settlement authority governed by chapter 12E.

Sec. 22. Section 12B.10B, subsection 3, Code 1999, is amended by adding the following new paragraph:

NEW PARAGRAPH. i. The tobacco settlement authority governed by chapter 12E.

Sec. 23. Section 12B.10C, Code 1999, is amended by adding the following new subsection:

NEW SUBSECTION. 8. The tobacco settlement authority governed by chapter 12E.

Sec. 24. Chapter 12E is repealed March 1, 2001.

Sec. 25. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved May 19, 2000

CHAPTER 1209

IOWA HIGHER EDUCATION LOAN AUTHORITY — AUTHORIZATION

H.F. 2581

AN ACT relating to the authorization of the Iowa higher education loan authority to make loans and issue obligations to make loans to entities other than educational institutions, and to finance projects to be leased to educational institutions, and providing that the obligations and income from obligations are exempt from taxation.

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

Section 1. Section 261A.27, Code 1999, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Obligations issued by the authority on or after July 1, 2000, pursuant to either division of this chapter, their transfer, and income therefrom are exempt from taxation of any kind by the state or any political subdivision of the state.

Sec. 2. Section 261A.34, subsection 3, Code 1999, is amended to read as follows:

3. "Project" means any property located within the state, constructed or acquired before or after July 1, 1985, that may be used or will be useful in connection with the instruction, feeding, or recreation of students, the conducting of research, administration, or other work of an institution, or any combination of the foregoing. "Project" includes, but is not limited to, any academic facility, administrative facility, assembly hall, athletic facility, instructional facility, laboratory, library, maintenance facility, student health facility, recreational facility, research facility, student union, or other facility suitable for the use of an institution. "Project" also means the refunding or refinancing of outstanding obligations, mortgages, or advances, including advances from an endowment or similar fund, originally issued, made, or given by the institution to finance the cost of a project. "Project" also includes a project that is to be leased ~~by the authority~~ to an institution.

Sec. 3. Section 261A.35, Code 1999, is amended to read as follows:

261A.35 GENERAL POWER OF AUTHORITY.

The authority is authorized to assist institutions in the constructing, financing, and refinancing of projects, and the authority may take action authorized by this division. The authority is authorized to be a member of limited liability companies organized for the purpose of leasing projects to institutions.

Sec. 4. Section 261A.36, Code 1999, is amended to read as follows:

261A.36 ISSUANCE OF OBLIGATIONS.

The authority may issue obligations of the authority for any of its corporate purposes as provided for in this division including the issuing of obligations to finance projects to be leased ~~by the authority~~ to an institution, and fund or refund the obligations pursuant to this division.

Sec. 5. Section 261A.37, Code 1999, is amended to read as follows:

261A.37 LOANS AUTHORIZED.

The authority may make loans to an institution for the cost of a project or in anticipation of the receipt of tuition by the institution in accordance with an agreement between the authority and the institution, except that a loan for the cost of a project shall not exceed the total cost of the project, as determined by the institution and approved by the authority and except that loans in anticipation of the receipt of tuition shall not exceed the anticipated amount of tuition to be received by the institution in the one-year period following the date of the loan. The authority may lease projects to institutions under the terms of lease agreements determined by the institution and the authority, except that the term of the lease shall not exceed the estimated useful economic life of the project. The authority may make loans to an entity other than an institution in accordance with an agreement between the authority and the entity for the cost of a project if the project is to be leased to an institution.

Sec. 6. Section 261A.38, Code 1999, is amended to read as follows:

261A.38 ISSUANCE OF OBLIGATIONS — CONDITIONS.

The authority may issue obligations and make loans to an institution or another entity if the project is to be leased to an institution or may issue obligations to finance projects to be leased by the authority to an institution and refund, refinance, or reimburse outstanding obligations, indebtedness, mortgages, or advances, including advances from an endowment or any similar fund, issued, made, or given by the institution, whether before or after July 1, 1985, for the cost of a project, when the authority finds that the financing prescribed in this section is in the public interest, and either alleviates a financial hardship upon the institution, results in a lesser cost of education, or enables the institution to offer greater security for a loan or loans to finance a new project or projects or to effect savings in interest costs or more favorable amortization terms.

Approved May 19, 2000

CHAPTER 1210

FORCIBLE ENTRY AND DETAINER ACTIONS — RENT OR PROPERTY RECOVERY

S.F. 2214

AN ACT relating to residential landlord-tenant law, by making certain changes related to forcible entry and detainer actions.

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

Section 1. Section 648.19, Code 1999, is amended to read as follows:

648.19 NO JOINDER OR COUNTERCLAIM — EXCEPTION.

1. An action ~~of this kind~~ under this chapter shall not be ~~brought~~ filed in connection with any other action, with the exception of a claim for rent or recovery as provided in section 555B.3, 562A.24, 562A.32, 562B.22, 562B.25, or 562B.27, nor shall it be made the subject of counterclaim.

2. When ~~joined~~ filed with an action for rent or recovery as provided in section 555B.3, 562A.24, 562A.32, 562B.22, 562B.25, or 562B.27, notice of hearing as provided in section 648.5 is sufficient.

3. An action under this chapter that is filed in connection with another action in accordance with this section shall be treated only as a joint filing of separate cases assigned separate case numbers, but with a single filing fee. The court shall not merge the causes of action. The court shall consider the jointly filed cases separately and shall consider each case according to the rules applicable to that type of case.

Sec. 2. NEW SECTION. 648.22B CASES WHERE MOBILE OR MANUFACTURED HOME IS THE SUBJECT OF A FORECLOSURE ACTION.

1. When a mobile or manufactured home located in a mobile home park is the subject of an action by a lienholder to foreclose a lienhold interest, the plaintiff may advance all moneys due and owing to the landlord and enter into an agreement with the court to pay to the landlord before delinquency all rent, reasonable upkeep, and other reasonable charges thereafter accruing on the home and space that it occupies, in which case any writ of execution on a judgment under this chapter will be stayed until the home is sold in place as provided by law or removed from the mobile home park at the plaintiff's expense.

2. When the conditions of subsection 1 have been satisfied, the clerk of court shall so notify the sheriff of the county in which the mobile or manufactured home is located.

3. The landlord shall have standing to intervene in the foreclosure proceedings or to file a separate action to compel compliance with the lienholder's undertaking pursuant to subsection 1 and shall be entitled to recover costs and attorney fees incurred.

4. All expenditures made by a lienholder pursuant to subsection 1 shall be recoverable from the lien debtor in the foreclosure proceedings as protective disbursements whether or not provision is made for such recovery in the documentation of the subject lien.

5. In any case where this section has become operative, the provisions of section 648.18 shall not apply.

Approved May 23, 2000

CHAPTER 1211

DISSENTING SHAREHOLDER INTERESTS IN BANKS OR BANK HOLDING COMPANIES — FAIR VALUE

H.F. 2197

AN ACT relating to the determination of fair value of the shares of dissenting shareholders of a bank or bank holding company.

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

Section 1. Section 490.1330, Code 1999, is amended by adding the following new subsection:

NEW SUBSECTION. 6. Notwithstanding the provisions of this division, if the corporation is a bank holding company as defined in section 524.1801, fair value, at the election of the bank holding company, may be determined as provided in section 524.1406, subsection 3, prior to giving notice under section 490.1320 or 490.1322. The fair value as determined shall be included in any notice under section 490.1320 or 490.1322, and section 490.1328 shall not apply.

Sec. 2. Section 490.1301, subsection 4, Code 1999, is amended to read as follows:

4. "Fair value", with respect to a dissenter's shares, means the value of the shares immediately before the effectuation of the corporate action to which the dissenter objects, excluding any appreciation or depreciation in anticipation of the corporate action unless exclusion would be inequitable. With respect to a dissenter's shares that are the shares of a corporation that is a bank holding company as defined in section 524.1801, the factors identified in section 524.1406, subsection 3, paragraph "a", shall also be considered.

Sec. 3. Section 524.1406, subsection 3, Code Supplement 1999, is amended to read as follows:

3. a. Notwithstanding any contrary provision in chapter 490, division XIII, in determining the fair value of the shareholder's shares ~~under this section~~ of a bank organized under this chapter or a bank holding company as defined in section 524.1801 in a transaction or event in which the shareholder is entitled to the rights and remedies of a dissenting shareholder, due consideration shall be given to valuation ~~issues acknowledged and authorized by the Internal Revenue Code, as defined in section 422.3~~ factors recognized for federal and estate tax purposes, including discounts for minority interests and discounts for lack of marketability. However, any payment made to dissenting shareholders under section 490.1325 shall be in an amount not less than the stockholders' equity in the bank disclosed in its last statement of condition filed under section 524.220 or the total equity capital of the bank holding company disclosed in the most recent report filed by the bank holding company with the board of governors of the federal reserve system, divided by the number of shares outstanding.

b. Prior to giving notice of a meeting at which a shareholder of a bank organized under this chapter or a bank holding company as defined in section 524.1801 would be entitled to ~~assert dissenter's rights, a bank~~ the rights and remedies of a dissenting shareholder, such bank or bank holding company may seek a declaratory judgment to establish the fair value for purposes of section 490.1301, subsection 4, of shares held by such shareholders ~~who would have a right to dissent~~. Another cause of action or a counterclaim shall not be joined with such a declaratory action. A declaratory judgment shall be filed in the county where the ~~bank's~~ principal place of business of the bank or bank holding company is located. The court shall appoint an attorney to represent minority shareholders. All shareholders of the bank or bank holding company shall be served with notice of the action and be advised of the name, address, and telephone number of the attorney appointed to represent minority ~~shareholder interests~~ shareholders. The attorney appointed to represent minority shareholders shall select an appraiser to give an opinion of the fair value of such shares. The bank or bank holding company may select an appraiser to give an opinion on the fair value ~~and the attorney shall select an appraiser to give an opinion on fair value~~ of the shares of the bank or bank holding company. Any shareholder may participate individually and present evidence of the fair value of such shareholder's shares. All court costs, appraiser's fees, and the fees and expenses of the attorney appointed to represent the minority shareholders shall be assessed against the bank or the bank holding company. A judgment in the action shall not determine fair value for a share to be less than the stockholders' equity in the bank disclosed in its last statement of condition filed under section 524.220 or the total equity capital of the bank holding company disclosed in the most recent report filed by the bank holding company with the board of governors of the federal reserve system, divided by the number of shares outstanding. A final judgment in the action shall establish fair value for the purposes of chapter 490, division XIII and shall be disclosed to the shareholders in the notice to shareholders of the meeting to approve the transaction that gives rise to dissenters' rights. If the proposed transaction is approved by the shareholders, upon consummation of the proposed transaction the fair value so established shall be paid to ~~all shareholders~~ each shareholder entitled to payment for ~~their~~ the shareholder's shares upon receipt of such ~~shareholders'~~ shareholder's share certificates.

Approved May 26, 2000

CHAPTER 1212

LIMITED SALES AND USE TAX EXEMPTION FOR CLOTHING AND FOOTWEAR

H.F. 2351

AN ACT relating to a sales and use tax exemption for the sales of clothing and footwear for a limited time period annually and including an effective date.

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

Section 1. Section 422.45, Code Supplement 1999, is amended by adding the following new subsection:

NEW SUBSECTION. 57. a. The gross receipts from the sale of an article of clothing or footwear designed to be worn on or about the human body if all of the following apply:

(1) The sales price of the article is less than one hundred dollars.

(2) The sale takes place during a period beginning at 12:01 a.m. on the first Friday in August and ending at midnight on the following Saturday.

b. This subsection does not apply to any of the following:

(1) Special clothing or footwear that is primarily designed for athletic activity or protective use and that is not normally worn except when used for the athletic activity or protective use for which it is designed.

(2) Accessories, including jewelry, handbags, luggage, umbrellas, wallets, watches, and similar items carried on or about the human body, without regard to whether worn on the body in a manner characteristic of clothing.

(3) The rental of clothing or footwear.

Sec. 2. During the regular session of the general assembly convening in 2002, the appropriate committees shall review the impact that the exemption enacted in section 1 of this Act has had in the economy and tax revenues of the state. After reviewing such impact, the appropriate committees shall consider the benefits of expanding the exemption enacted in section 1 of this Act to apply to sales of articles of clothing and footwear regardless of when such sales take place.

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

Approved May 26, 2000

CHAPTER 1213

ECONOMIC DEVELOPMENT PROGRAMS — TAX CREDITS — INCENTIVES

H.F. 2540

AN ACT relating to economic development programs and related tax credits and including effective and retroactive applicability date provisions.

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

Section 1. Section 15.333, subsection 1, Code Supplement 1999, is amended to read as follows:

1. An eligible business may claim a corporate tax credit up to a maximum of ten percent of the new investment which is directly related to new jobs created by the location or expan-

sion of an eligible business under the program. Any credit in excess of the tax liability for the tax year may be credited to the tax liability for the following seven years or until depleted, whichever occurs earlier. Subject to prior approval by the department of economic development in consultation with the department of revenue and finance, an eligible business whose project primarily involves the production of value-added agricultural products may elect to refund all or a portion of an unused tax credit. The refund may be used against a tax liability imposed under chapter 422, division II, III, or V. If the business is a partnership, subchapter S corporation, limited liability company, or estate or trust electing to have the income taxed directly to the individual, an individual may claim the tax credit allowed. The amount claimed by the individual shall be based upon the pro rata share of the individual's earnings of the partnership, subchapter S corporation, limited liability company, or estate or trust. For purposes of this section, "new investment directly related to new jobs created by the location or expansion of an eligible business under the program" means the cost of machinery and equipment, as defined in section 427A.1, subsection 1, paragraphs "e" and "j", purchased for use in the operation of the eligible business, the purchase price of which has been depreciated in accordance with generally accepted accounting principles, and the cost of improvements made to real property which is used in the operation of the eligible business and which receives a partial property tax exemption for the actual value added under section 15.332.

1A. An eligible business whose project primarily involves the production of value-added agricultural products, that elects to receive a refund of all or a portion of an unused tax credit, shall apply to the department of economic development for tax credit certificates. An eligible business whose project primarily involves the production of value-added agricultural products shall not claim a tax credit under this section unless a tax credit certificate issued by the department of economic development is attached to the taxpayer's tax return for the tax year during which the tax credit is claimed. A tax credit certificate shall not be valid until the tax year following the date of the project completion. A tax credit certificate shall contain the taxpayer's name, address, tax identification number, the date of project completion, the amount of the tax credit, other information required by the department of revenue and finance. The department of economic development shall not issue tax credit certificates which total more than four million dollars during a fiscal year. If the department receives applications for tax credit certificates in excess of four million dollars, the applicants shall receive certificates for a prorated amount. The tax credit certificates shall not be transferred.

Sec. 2. Section 15.333A, subsection 1, unnumbered paragraph 2, Code 1999, is amended to read as follows:

For purposes of this section, "new investment directly related to new jobs created by the location or expansion of an eligible business under the program" means the cost of machinery and equipment, as defined in section 427A.1, subsection 1, paragraphs "e" and "j", purchased for use in the operation of the eligible business, the purchase price of which has been depreciated in accordance with generally accepted accounting principles, and the cost of improvements made to real property which is used in the operation of the eligible business ~~and which receives a partial property tax exemption for the actual value added under section 15.332~~.

For purposes of this section, the purchase price of real property and any buildings and structures located on the real property is considered a new investment in the location or expansion of an eligible business. However, if within five years of purchase, the eligible business sells, disposes of, razes, or otherwise renders unusable all or a part of the land, buildings, or other existing structures for which an insurance premium tax credit was claimed under this section, the insurance premium tax liability of the eligible business for the year in which all or part of the property is sold, disposed of, razed, or otherwise rendered unusable shall be increased by one of the following amounts:

a. One hundred percent of the tax credit claimed under this section if the property ceases to be eligible for the tax credit within one year after being placed in service.

b. Eighty percent of the tax credit claimed under this section if the property ceases to be eligible for the tax credit within two years after being placed in service.

c. Sixty percent of the tax credit claimed under this section if the property ceases to be eligible for the tax credit within three years after being placed in service.

d. Forty percent of the tax credit claimed under this section if the property ceases to be eligible for the tax credit within four years after being placed in service.

e. Twenty percent of the tax credit claimed under this section if the property ceases to be eligible for the tax credit within five years after being placed in service.

Sec. 3. Section 15E.192, Code 1999, is amended by adding the following new subsection:

NEW SUBSECTION. 2A. a. A county may designate an enterprise zone within an area located in one or more contiguous census tracts or other geographic units of the county that meets at least two of the following distress criteria:

(1) The area has a per capita income of nine thousand six hundred dollars or less based according to the 1990 census.

(2) The area has a family poverty rate of twelve percent or more according to the 1990 census.

(3) Ten percent or more of the housing units in the area are vacant.

(4) The valuations of each class of property in the designated area of the census tract is seventy-five percent or less of the countywide average for that classification based upon the most recent valuations for property tax purposes.

(5) The area is a blighted area, as defined in section 403.17.

b. The department shall not approve more than five enterprise zones designated under this subsection prior to July 1, 2001.

Sec. 4. Section 15E.192, subsection 3, Code 1999, is amended to read as follows:

3. A county or city may apply to the department for an area to be certified as an enterprise zone at any time prior to July 1, ~~2000~~ 2003. However, the total amount of land designated as enterprise zones under subsections 1 and 2 shall not exceed in the aggregate one percent of the total county area.

Sec. 5. Section 15E.193B, subsection 2, Code 1999, is amended to read as follows:

2. An eligible housing business under this section includes a housing developer, ~~or~~ housing contractor, or nonprofit organization that builds or rehabilitates a minimum of four single-family homes with a value, after completion of the building or rehabilitation, not exceeding one hundred twenty thousand dollars for each home located in that part of a city or county in which there is a designated enterprise zone or one multiple dwelling unit building containing three or more individual dwelling units with a total value per unit, after completion of the building or rehabilitation, not exceeding one hundred twenty thousand dollars located in that part of a city or county in which there is a designated enterprise zone.

Sec. 6. Section 15E.193B, subsection 5, Code 1999, is amended by adding the following new paragraph:

NEW PARAGRAPH. e. Information showing the total costs and sources of project financing that will be utilized for the new investment directly related to housing for which the business is seeking approval for a tax credit provided in subsection 6, paragraph "a".

Sec. 7. Section 15E.193B, subsection 6, paragraph a, Code 1999, is amended to read as follows:

a. An eligible housing business may claim ~~an income~~ a tax credit up to a maximum of ten percent of the new investment which is directly related to the building or rehabilitating of a

minimum of four single-family homes located in that part of a city or county in which there is a designated enterprise zone or one multiple dwelling unit building containing three or more individual dwelling units located in that part of a city or county in which there is a designated enterprise zone. The tax credit may be used to reduce the tax liability imposed under chapter 422, division II, III, or V. Any credit in excess of the tax liability for the tax year may be credited to the tax liability for the following seven years or until depleted, whichever occurs earlier. If the business is a partnership, ~~subchapter~~ S corporation, limited liability company, or estate or trust electing to have the income taxed directly to the individual, an individual may claim the tax credit allowed. The amount claimed by the individual shall be based upon the pro rata share of the individual's earnings of the partnership, ~~subchapter~~ S corporation, limited liability company, or estate or trust.

Sec. 8. Section 15E.193B, Code 1999, is amended by adding the following new subsection:
NEW SUBSECTION. 9. The amount of the tax credits determined pursuant to section 15E.193B, subsection 6, paragraph "a", for each project shall be approved by the department of economic development. The department shall utilize the financial information required to be provided under section 15E.193B, subsection 5, paragraph "e", to determine the tax credits allowed for each project. In determining the amount of tax credits to be allowed for a project, the department shall not include the portion of the project cost financed through federal, state, and local government tax credits, grants, and forgivable loans.

Sec. 9. Section 15E.194, Code 1999, is amended by adding the following new subsection:
NEW SUBSECTION. 4. 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 occurs involving 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. The enterprise zone may be established on the property of the place of business that has closed and the enterprise zone may include an area up to an additional one mile 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 3.

Sec. 10. EFFECTIVE AND APPLICABILITY DATES. This Act, being deemed of immediate importance, takes effect upon enactment. Sections 5, 6, and 7 of this Act apply retroactively to January 1, 2000, for tax years beginning on or after that date. Section 1 of this Act takes effect July 1, 2001, and applies to tax years beginning on or after that date.

Approved May 26, 2000

CHAPTER 1214

MISCELLANEOUS APPROPRIATIONS, REDUCTIONS, SUPPLEMENTALS, TRANSFERS, AND CREDITS

H.F. 2039

AN ACT relating to state budgetary matters by providing for reductions and supplementation of appropriations for the fiscal year beginning July 1, 1999, transferring, crediting, and appropriating certain moneys, and providing effective dates.

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

DIVISION I
ADMINISTRATION AND REGULATION — SALARIES
DEPARTMENT OF GENERAL SERVICES

Section 1. 1999 Iowa Acts, chapter 199, section 6, subsection 2 and subsection 5, unnumbered paragraph 1, are amended to read as follows:

2. PROPERTY MANAGEMENT

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ ~~4,395,293~~
4,382,793

..... FTEs 114.00

[1]For payment of utility costs:

..... $ ~~2,324,489~~
2,036,989

GOVERNOR AND LIEUTENANT GOVERNOR

Sec. 2. 1999 Iowa Acts, chapter 199, section 8, subsection 1, paragraph a, is amended to read as follows:

a. GENERAL OFFICE

For salaries, support, maintenance, and miscellaneous purposes for the general office of the governor and the general office of the lieutenant governor, and for not more than the following full-time equivalent positions:

..... $ ~~1,367,444~~
1,354,673

..... FTEs 17.25

DEPARTMENT OF INSPECTIONS AND APPEALS

Sec. 3. 1999 Iowa Acts, chapter 199, section 10, subsection 5, unnumbered paragraphs 1 and 2, are amended to read as follows:

HEALTH FACILITIES DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ ~~2,241,150~~
2,317,150

..... FTEs ~~102.00~~
108.00

At least $76,000 of the amount appropriated and 6.0 FTEs authorized in this section are allocated for enhanced response to complaints regarding intermediate care facilities as

[1] Subsection "5. UTILITY COSTS" probably intended

necessary to comply with federal health care financing administration requirements for response within 10 days.

DEPARTMENT OF MANAGEMENT

Sec. 4. 1999 Iowa Acts, chapter 199, section 14, subsection 1, unnumbered paragraph 1, is amended to read as follows:

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ ~~2,242,430~~
2,142,430
..... FTEs 30.00

WORKERS' COMPENSATION

Sec. 5. 1999 Iowa Acts, chapter 199, section 23, unnumbered paragraph 2, is amended to read as follows:

For distribution, subject to approval of the department of management, to various state departments to fund the premiums for paying workers' compensation claims which are assessed to and collected from the state department by the department of personnel based upon a rating formula established by the department of personnel:

..... $ ~~5,884,740~~
4,084,740

DEPARTMENT OF REVENUE AND FINANCE

Sec. 6. 1999 Iowa Acts, chapter 199, section 24, subsection 3, is amended to read as follows:

3. INTERNAL RESOURCES MANAGEMENT

For salaries, support, maintenance, and miscellaneous purposes:

..... $ ~~6,210,493~~
5,910,493

CENTURY DATE CHANGE

Sec. 7. REVERSION INCENTIVE PROGRAM FUND. Notwithstanding 1997 Iowa Acts, chapter 210, section 10, subsection 1, paragraph "f", on the effective date of this section, $400,986 of the moneys appropriated to the reversion incentive program fund pursuant to 1997 Iowa Acts, chapter 210, section 10, subsection 1, paragraph "a", shall be transferred and credited to the general fund of the state.

DIVISION II
AGRICULTURE AND NATURAL RESOURCES

Sec. 8. 1999 Iowa Acts, chapter 206, section 3, subsection 2, subsection 3, subsection 4, unnumbered paragraph 1 and paragraph a, and subsection 5, unnumbered paragraph 1 and paragraph a, are amended to read as follows:

2. PARKS AND PRESERVES DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ ~~6,157,037~~
6,114,037
..... FTEs 195.73

Of the amount appropriated in this subsection 2, at least $50,000 shall be allocated for the replacement of maintenance equipment used by the division.

3. FORESTS AND FORESTRY DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ ~~1,707,347~~
1,695,347
..... FTEs 48.71

[2]ENERGY AND GEOLOGICAL RESOURCES DIVISION

a. For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ ~~1,898,002~~
1,885,002
..... FTEs 54.00

[3]ENVIRONMENTAL PROTECTION DIVISION

a. For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ ~~4,906,116~~
4,874,116
..... FTEs 243.50

DIVISION III
ECONOMIC DEVELOPMENT
DEPARTMENT OF ECONOMIC DEVELOPMENT

Sec. 9. 1999 Iowa Acts, chapter 197, section 1, subsection 2, paragraph e, unnumbered paragraphs 1 and 2, are amended to read as follows:

STRATEGIC INVESTMENT FUND

For deposit in the strategic investment fund for salaries, support, and for not more than the following full-time equivalent positions:

..... $ ~~6,115,799~~
5,044,799
..... FTEs 12.50

DEPARTMENT OF WORKFORCE DEVELOPMENT

Sec. 10. 1999 Iowa Acts, chapter 197, section 9, subsection 1, unnumbered paragraphs 1 and 2, and subsection 5, unnumbered paragraphs 1 and 2, are amended to read as follows:

[4]DIVISION OF LABOR SERVICES

For the division of labor services, including salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ ~~3,036,408~~
3,001,408
..... FTEs 95.00

[5]WORKFORCE DEVELOPMENT AREAS

For salaries, support, maintenance, and miscellaneous purposes for the development and maintenance of a workforce sufficient in size and skill to meet the occupational demands of each workforce development area, and for workforce development programs, including those provided for in sections 84A.7, 84A.8, and 84A.9. Each region shall be required to provide an equal amount of matching funds from local sources:

..... $ ~~1,480,022~~
1,230,022
..... FTEs 1.79

[2] Subsection "4." probably intended
[3] Subsection "5." probably intended
[4] Subsection "1." probably intended
[5] Subsection "5." probably intended

Sec. 11. 1999 Iowa Acts, chapter 197, section 18, is amended to read as follows:

SEC. 18. In lieu of the appropriation made in section 15.365, subsection 3, there is appropriated for the fiscal year beginning July 1, 1999, and ending June 30, 2000, $~~100,000~~ 50,000, or so much thereof as is necessary from the general fund of the state to the department of economic development to pay refunds as provided under section 15.365.

DIVISION IV
EDUCATION
COLLEGE STUDENT AID COMMISSION

Sec. 12. 1999 Iowa Acts, chapter 205, section 1, subsection 1, is amended to read as follows:

1. GENERAL ADMINISTRATION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	$	~~331,727~~
		314,507
.....	FTEs	5.40

DEPARTMENT OF EDUCATION

Sec. 13. 1999 Iowa Acts, chapter 205, section 7, subsection 3, paragraph b, is amended to read as follows:

~~b. For purposes of implementing a multilevel voluntary para-educator licensing system in accordance with section 272.12:~~

~~..... $ 50,000~~

Sec. 14. 1999 Iowa Acts, chapter 205, section 7, subsection 7, is amended to read as follows:

7. PUBLIC BROADCASTING DIVISION

For salaries, support, maintenance, capital expenditures, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	$	~~7,661,324~~
		7,627,477
.....	FTEs	106.40

Sec. 15. 1999 Iowa Acts, chapter 205, section 10, subsection 1, unnumbered paragraph 1, is amended to read as follows:

Notwithstanding section 8.33 and section 256.22, subsection 4, from the funds appropriated in 1998 Iowa Acts, chapter 1216, section 1, subsection 1, to the department of education for extended school year grants, which remain unencumbered or unobligated on June 30, 1999, the sum of $~~735,000~~ 685,000 shall not revert to the general fund of the state and shall not be available for expenditure for the following fiscal year for purposes of extended school year grants, but shall be reallocated by the department as follows:

Sec. 16. 1999 Iowa Acts, chapter 205, section 10, subsection 1, paragraph b, is amended to read as follows:

b. The sum of $~~100,000~~ 50,000 to the division of libraries and information services for promotion of the next decennial federal census.

Sec. 17. REVERSION OF EXTENDED SCHOOL YEAR GRANT MONEYS. Notwithstanding section 256.22, subsection 4, and 1998 Iowa Acts, chapter 1216, section 1, subsection 1, the $50,000 made available from the reduction made to the allocation in 1999 Iowa Acts, chapter 205, section 10, subsection 1, in sections 15 and 16 of this division of this Act, and any other moneys remaining unencumbered or unobligated from the appropriation made in 1998 Iowa Acts, chapter 1216, section 1, subsection 1, shall revert to the credit of the general fund of the state on the effective date of this section of this Act.

STATE BOARD OF REGENTS

Sec. 18. 1999 Iowa Acts, chapter 205, section 13, subsection 1, is amended by adding the following new paragraph:

NEW PARAGRAPH. f. The sum of the appropriations made in this subsection to the office of the state board of regents is reduced by $6,459. Within one day of the effective date of this lettered paragraph, the office shall notify the general assembly, the department of management, and the legislative fiscal bureau of the amount of reduction established by the office for each appropriation in order to allocate the total reduction amount required by this lettered paragraph.

Sec. 19. 1999 Iowa Acts, chapter 205, section 13, subsection 2, is amended by adding the following new paragraph:

NEW PARAGRAPH. q. The sum of the appropriations made in this subsection to the state university of Iowa is reduced by $1,563,634. Within one day of the effective date of this lettered paragraph, the state university shall notify the general assembly, the department of management, and the legislative fiscal bureau of the amount of reduction established by the state university for each appropriation in order to allocate the total reduction amount required by this lettered paragraph.

Sec. 20. 1999 Iowa Acts, chapter 205, section 13, subsection 3, is amended by adding the following new paragraph:

NEW PARAGRAPH. g. The sum of the appropriations made in this subsection to the Iowa state university of science and technology is reduced by $1,320,567. Within one day of the effective date of this lettered paragraph, the university shall notify the general assembly, the department of management, and the legislative fiscal bureau of the amount of reduction established by the university for each appropriation in order to allocate the total reduction amount required by this lettered paragraph.

Sec. 21. 1999 Iowa Acts, chapter 205, section 13, subsection 4, is amended by adding the following new paragraph:

NEW PARAGRAPH. d. The sum of the appropriations made in this subsection to the university of northern Iowa is reduced by $446,351. Within one day of the effective date of this lettered paragraph, the university shall notify the general assembly, the department of management, and the legislative fiscal bureau of the amount of reduction established by the university for each appropriation in order to allocate the total reduction amount required by this lettered paragraph.

Sec. 22. 1999 Iowa Acts, chapter 205, section 13, subsections 5 and 6, are amended to read as follows:

5. STATE SCHOOL FOR THE DEAF

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	$	~~7,737,161~~
		7,696,530
.....	FTEs	126.60

6. IOWA BRAILLE AND SIGHT SAVING SCHOOL

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	$	~~4,303,242~~
		4,280,884
.....	FTEs	91.05

PUBLIC BROADCASTING

Sec. 23. 1999 Iowa Acts, chapter 207, section 3, unnumbered paragraph 1, is amended to read as follows:

There is appropriated from the general fund of the state to the public broadcasting division of the department of education for the fiscal year beginning July 1, 1999, and ending June 30, 2000, the following amount, or so much thereof as is necessary, to be used for the purposes designated in subsections 1 and 2 and for the following full-time equivalent positions:

..... $ ~~2,327,217~~
2,282,217
..... FTEs 9.00

OTHER PROVISIONS

Sec. 24. MEDICAL ASSISTANCE CLAIMING BY STATE BOARD OF REGENTS. The state shall enter into a contract to enhance claiming of medical assistance program reimbursement payable for services provided by the state university of Iowa hospitals and clinics. After payment of contract costs, the first $4,000,000 received in additional reimbursement from the enhanced claiming during the period beginning with the effective date of this Act, and ending June 30, 2001, shall be credited to the general fund of the state. The balance of the additional reimbursement received during the period is appropriated to the state board of regents for the state university of Iowa hospitals and clinics for other expenses associated with the enhanced claiming and for the provision of services. The state board of regents shall report quarterly during the period delineated in this section to the department of management and the legislative fiscal bureau concerning the enhanced claiming and reimbursement that is received and anticipated.[6]

Sec. 25. EDUCATIONAL EXCELLENCE PROGRAM. For the fiscal year beginning July 1, 1999, and ending June 30, 2000, the appropriation from the general fund of the state to the department of education for the educational excellence program in section 294A.25, after the allocations for Phase I and Phase II of the program, is reduced by the following amount:

..... $ 425,000

Sec. 26. 1999 Iowa Acts, chapter 208, section 23, subsection 2, is amended to read as follows:

2. For a contract to purchase ~~internet connectivity from an internet service provider which provides~~ internet ~~filter~~ filtering services for school districts who wish to receive such services:

..... $ 50,000

The department of education shall work with the boards of directors of school districts and area education agencies in establishing service requirements and selecting ~~an internet service provider to provide internet filter~~ filtering services ~~through servers located at the area education agencies~~. The goal of providing ~~a~~ filtering ~~service~~ services to a school district is to protect students from inappropriate internet websites and to promote the use of the internet for educational purposes. School districts that wish to receive filtering services shall assume the ongoing costs ~~of~~ associated with the services.

Sec. 27. Section 294A.25, subsection 11, Code Supplement 1999, is amended to read as follows:

11. For the fiscal year beginning July 1, 1999, and ending June 30, 2000, to the department of education from phase III moneys the amount of ~~one million two hundred fifty~~ eight hundred twenty-five thousand dollars for support for the operations of the new Iowa schools development corporation and for school transformation design and implementation projects administered by the corporation. Of the amount provided in this subsection, one hundred fifty thousand dollars shall be used for the school and community planning initiative.

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[6] See chapter 1223, §13 herein

DIVISION V
HEALTH AND HUMAN RIGHTS

Sec. 28. 1999 Iowa Acts, chapter 201, section 5, subsection 2, unnumbered paragraph 2, is amended to read as follows:

For maintaining or improving the health status of adults, with target populations between the ages of 18 to 60, and for not more than the following full-time equivalent positions:

..... $ ~~783,855~~
698,855
..... FTEs 19.80

Sec. 29. 1999 Iowa Acts, chapter 201, section 5, subsection 3, unnumbered paragraph 2, is amended to read as follows:

For promoting the optimum health status for children and adolescents from birth through 21 years of age, and for not more than the following full-time equivalent positions:

..... $ ~~1,559,456~~
1,484,456
..... FTEs 39.55

Sec. 30. 1999 Iowa Acts, chapter 201, section 5, subsection 3, paragraph c, is amended by striking the paragraph.

DIVISION VI
HUMAN SERVICES

Sec. 31. 1999 Iowa Acts, chapter 203, section 3, unnumbered paragraph 2, is amended to read as follows:

To be credited to the family investment program account and used for family investment program assistance under chapter 239B:

..... $ ~~34,330,000~~
34,290,000

Sec. 32. 1999 Iowa Acts, chapter 203, section 5, subsection 4, paragraph a, is amended to read as follows:

a. For the food stamp employment and training program:

..... $ ~~250,000~~
210,000

Sec. 33. 1999 Iowa Acts, chapter 203, section 5, subsection 8, is amended to read as follows:

8. Notwithstanding 1998 Iowa Acts, chapter 1218, section 5, subsection 7, moneys appropriated to the department of human services in 1995 Iowa Acts, chapter 220, section 11, for purposes of costs associated with the development of the X-PERT computer system shall not revert at the close of the fiscal year beginning July 1, 1998, but shall remain available until the close of the fiscal year beginning July 1, 1999, to be used as provided in this subsection. Notwithstanding section 8.57, subsection 5, paragraph "c", of these moneys, $350,000 shall be transferred to the appropriation in this Act for field operations to be used for ~~the purpose of reviewing and decreasing the error rate~~ administration of the food stamp program ~~in order to meet federal requirements for food stamp payment accuracy~~, $7,445 shall be used for welfare reform system improvements, $212,846 shall be used for a technology initiative to provide a buy-in option under the medical assistance program for persons with disabilities if Senate File 211 is enacted by the Seventy-eighth General Assembly, 1999 Session,[7] and $129,709 shall be used for county billing system improvements. The department shall submit a report of the food stamp program error rate review and findings of the review to the general assembly on or before December 15, 1999.

[7] See 1999 Iowa Acts, chapter 94

Sec. 34. 1999 Iowa Acts, chapter 203, section 11, unnumbered paragraph 2, is amended to read as follows:

For state supplementary assistance, funeral assistance, and the medical assistance home and community-based services waiver rent subsidy program:

..... $ ~~20,500,000~~
20,400,000

Sec. 35. 1999 Iowa Acts, chapter 203, section 14, unnumbered paragraph 3, is amended to read as follows:

For the state juvenile institutions:

..... $ ~~15,748,000~~
15,348,000
..... FTEs 356.45

Sec. 36. 1999 Iowa Acts, chapter 203, section 14, subsection 2, unnumbered paragraph 1, is amended to read as follows:

The following amounts of the funds appropriated and full-time equivalent positions authorized in this section are allocated for the state training school at Eldora:

..... $ ~~9,528,000~~
9,128,000
..... FTEs 219.91

Sec. 37. 1999 Iowa Acts, chapter 203, section 15, unnumbered paragraph 2, is amended to read as follows:

For child and family services:

..... $ ~~107,450,000~~
107,262,160

Sec. 38. 1999 Iowa Acts, chapter 203, section 15, subsection 9, unnumbered paragraph 1, is amended to read as follows:

Of the funds appropriated in this section, not more than $~~830,784~~ 642,944 shall be expended to implement a subsidized guardianship program to provide financial assistance to guardians of children who have a permanency order under section 232.104, subsection 2, paragraph "d", subparagraph (1), and for whom all of the following apply:

Sec. 39. 1999 Iowa Acts, chapter 203, section 15, subsection 20, paragraph b, is amended to read as follows:

~~b. The moneys credited to this appropriation shall be used if there is any reduction in the federal financial participation amount for rehabilitation treatment services from the amount projected by the department in creating its budget.~~

Sec. 40. 1999 Iowa Acts, chapter 203, section 19, is amended by adding the following new subsection:

NEW SUBSECTION. 7. The departments of human services and management shall revise their tables of organization applicable to the state hospital-schools and take any other actions necessary to fill the entire number of full-time equivalent positions authorized for the state hospital-schools in this section of this Act.

Sec. 41. 1999 Iowa Acts, chapter 203, section 27, unnumbered paragraph 2, is amended to read as follows:

For field operations, including salaries, support, maintenance, and miscellaneous purposes and for not more than the following full-time equivalent positions:

..... $ ~~49,160,000~~
46,821,000
..... FTEs 2,071.00

Sec. 42. 1999 Iowa Acts, chapter 203, section 30, unnumbered paragraph 2, is amended to read as follows:

For costs associated with the commitment and treatment of sexually violent predators 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:

..... $ ~~1,531,000~~
1,264,470
..... FTEs 20.00

DIVISION VII
JUSTICE SYSTEM

Sec. 43. 1999 Iowa Acts, chapter 202, section 4, subsection 1, paragraph f, is amended to read as follows:

f. For the operation of the Rockwell City correctional facility, including salaries, support, maintenance, employment of correctional officers, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ ~~6,912,836~~
6,734,336
..... FTEs 121.00

Sec. 44. 1999 Iowa Acts, chapter 202, section 5, subsection 1, unnumbered paragraph 1, is amended to read as follows:

For general administration, including salaries, support, maintenance, employment of an education director and clerk to administer a centralized education program for the correctional system, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ ~~4,416,916~~
2,976,916
..... FTEs 37.18

Sec. 45. 1999 Iowa Acts, chapter 202, section 5, subsection 4, unnumbered paragraph 1, is amended to read as follows:

For educational programs for inmates at state penal institutions:

..... $ ~~3,294,775~~
2,710,775

Sec. 46. 1999 Iowa Acts, chapter 202, section 20, subsection 2, unnumbered paragraph 1, is amended to read as follows:

For the division of criminal investigation and bureau of identification including the state's contribution to the peace officers' retirement, accident, and disability system provided in chapter 97A in the amount of 17 percent of the salaries for which the funds are appropriated, to meet federal fund matching requirements, and for not more than the following full-time equivalent positions:

..... $ ~~11,759,610~~
11,548,085
..... FTEs 227.50

Sec. 47. 1999 Iowa Acts, chapter 202, section 20, subsection 3, paragraph a, is amended to read as follows:

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:

..... $ ~~2,845,587~~
2,773,357
..... FTEs 48.00

Sec. 48. 1999 Iowa Acts, chapter 202, section 20, subsection 4, is amended to read as follows:

4. For the state fire marshal's office, including the state's contribution to the peace officers' retirement, accident, and disability system provided in chapter 97A in the amount of 17 percent of the salaries for which the funds are appropriated, and for not more than the following full-time equivalent positions:

..... $ ~~1,629,621~~
1,587,489
..... FTEs 31.80

Sec. 49. 1999 Iowa Acts, chapter 202, section 20, subsection 5, is amended to read as follows:

5. For the capitol security division, including the state's contribution to the peace officers' retirement, accident, and disability system provided in chapter 97A in the amount of 17 percent of the salaries for which the funds are appropriated and for not more than the following full-time equivalent positions:

..... $ ~~1,307,615~~
1,275,715
..... FTEs 27.00

Sec. 50. 1999 Iowa Acts, chapter 202, section 20, subsection 6, is amended to read as follows:

6. For the division of the Iowa state patrol of the department of public safety, for salaries, support, maintenance, workers' compensation costs, and miscellaneous purposes, including the state's contribution to the peace officers' retirement, accident, and disability system provided in chapter 97A in the amount of 17 percent of the salaries for which the funds are appropriated, and for not more than the following full-time equivalent positions:

..... $ ~~37,090,282~~
36,286,862
..... FTEs 574.25

Sec. 51. 1999 Iowa Acts, chapter 202, section 20, is amended by adding the following new subsection:

NEW SUBSECTION. 12. Notwithstanding section 97A.8, subsection 1, paragraph "b", and the percentage amounts stated in the appropriations made in this section, the total amount of the state's contribution to the peace officers' retirement, accident, and disability system for the fiscal year beginning July 1, 1999, made in this section on or after the effective date of this subsection shall be reduced by $1,161,207. The department shall apply the reduction by prorating the $1,161,207 among the enforcement divisions based upon a division's relative share of the covered payroll for all of the divisions.

Sec. 52. HIGHWAY SAFETY PATROL FUND. All moneys remaining in the highway safety patrol fund created in section 80.41, Code 1999, following the repeal of the fund on July 1, 1999, shall be transferred and credited to the general fund of the state on the effective date of this section of this Act.

Sec. 53. HOUSING OF FEDERAL AND COUNTY PRISONERS. For the fiscal periods designated in subsections 1 and 2 of this section, the department of corrections may contract for the housing of federal and county prisoners in correctional facilities administered by the department. Moneys received for such housing, less the direct expenses associated with the contract as approved by the department of management, shall be credited to the general fund of the state. The approved amount for direct expenses is appropriated to the department of corrections. The department of corrections shall report quarterly to the department of management and the legislative fiscal bureau concerning amounts received

under the contracts, direct expenses incurred, and amounts credited to the general fund of the state.

Moneys appropriated in this section for approved direct expenses that remain unexpended at the close of a fiscal period shall be credited to the general fund of the state. The provisions of this section are applicable for the following fiscal periods:

1. For the fiscal period beginning on the effective date of this section and ending June 30, 2000.

2. For the fiscal year beginning July 1, 2000, and ending June 30, 2001.

DIVISION VIII
TRANSPORTATION
STATE DEPARTMENT OF TRANSPORTATION

Sec. 54. 1999 Iowa Acts, chapter 198, section 1, subsection 2, is amended to read as follows:

~~2. For planning and programming, for salaries, support, maintenance, and miscellaneous purposes:~~

~~..... $ 203,085~~

DIVISION IX
SALARY ADJUSTMENT, OUT-OF-STATE TRAVEL, AND OTHER PROVISIONS

Sec. 55. 1999 Iowa Acts, chapter 200, section 6, unnumbered paragraph 1, is amended to read as follows:

There is appropriated from the general fund of the state to the salary adjustment fund for distribution by the department of management to the various state departments, boards, commissions, councils, and agencies, including the state board of regents, for the fiscal year beginning July 1, 1999, and ending June 30, 2000, the amount of ~~$52,800,000~~ $50,091,029, or so much thereof as may be necessary, to fully fund the following annual pay adjustments, expense reimbursements, and related benefits:

Sec. 56. INNOVATION FUND. The department of management shall transfer $300,000 of the moneys credited to the innovation fund created in section 8.63 to the general fund of the state. The transfer shall be completed during the period beginning with the effective date of this Act and ending with the close of the fiscal year that commenced on July 1, 1999.

Sec. 57. OUT-OF-STATE TRAVEL. For the fiscal year beginning July 1, 1999, and ending June 30, 2000, the appropriations from the general fund of the state and the reversion technology initiatives account listed in this section are reduced in the overall amount of $364,021, as necessary to effect a 25 percent reduction in expenditures for out-of-state travel. The reduction of the individual appropriations shall be allocated by the department of management in consultation with the affected departments and agencies on the basis of an individual appropriation's proportion of the sum of the listed appropriations as adjusted according to the department's or agency's ability to implement the reduction. The specific amount that each individual appropriation is reduced shall be outlined in a memorandum prepared by the department of management which shall be submitted to the general assembly and legislative fiscal bureau within 30 days of the effective date of this section of this Act. The reduction of an individual appropriation pursuant to this section shall be in addition to any other reduction required by law. The reduction shall apply to the following appropriations:

1. To the indicated departments and agencies in 1999 Iowa Acts, chapter 195.

2. To the department of general services, division of information technology services, for embedded chips in 1999 Iowa Acts, chapter 196.

3. To the departments of economic development and workforce development, Iowa state university of science and technology, state university of Iowa, university of northern Iowa, and public employee relations board in 1999 Iowa Acts, chapter 197, sections 1, 6 through 9, and 12.

4. To the indicated state departments and agencies in 1999 Iowa Acts, chapter 199, sections 2 through 4, 6, 10 through 12, 14, subsection 1, 16, and 24.

5. To the department for the blind, departments of elder affairs, public health, and human rights, Iowa state civil rights commission, commission of veterans affairs, and governor's alliance on substance abuse in 1999 Iowa Acts, chapter 201, sections 1 through 7, and 16.

6. To the departments of corrections, public defense, public safety, and Iowa law enforcement academy, board of parole, and office of the state public defender of the department of inspections and appeals in 1999 Iowa Acts, chapter 202, sections 4, 5, 7, 8, 11, and 17 through 20.

7. To the department of human services, except for entitlement appropriations as described in section 8.39, subsection 2, in 1999 Iowa Acts, chapter 203.

8. To the college student aid commission, departments of cultural affairs and education, and state board of regents in 1999 Iowa Acts, chapter 205.

9. To the department of agriculture and land stewardship and the department of natural resources in 1999 Iowa Acts, chapter 206, sections 1 through 3, 6, 7, 9, and 12.

10. To the indicated state departments and agencies for purposes of state government technology and operations in 1999 Iowa Acts, chapter 207, sections 2 through 5.

DIVISION X
EFFECTIVE DATE

Sec. 58. EFFECTIVE DATE. Except as otherwise provided in this Act,[8] this Act, being deemed of immediate importance, takes effect upon enactment.

Approved January 18, 2000

CHAPTER 1215

APPROPRIATIONS — NATIONAL WORLD WAR II MEMORIAL

H.F. 2059

AN ACT making an appropriation to the commission of veterans affairs for a contribution toward the construction of a national World War II memorial.

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

Section 1. NATIONAL WORLD WAR II MEMORIAL APPROPRIATION. Notwithstanding section 8.57, subsection 5, paragraph "c," there is appropriated from the rebuild Iowa infrastructure fund to the commission of veterans affairs for the fiscal year beginning July 1, 2000, and ending June 30, 2001, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For a contribution to the World War II memorial fund for funding the construction of a national World War II memorial in Washington, D.C.:

..... $ 278,000

The commission of veterans affairs shall not make a contribution of any of the funds appropriated in this section unless either of the following conditions has been met:

1. The United States secretary of the interior has issued a construction permit for construction of the national World War II memorial.

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[8] According to enrolled Act; no other effective date provisions are contained in the Act as approved by the governor and general assembly

2. The United States secretary of the interior has not issued a construction permit as provided in subsection 1, but the commission of veterans affairs has determined there is substantial evidence of sufficient funding available for construction of the national World War II memorial.

Notwithstanding section 8.33, if the commission of veterans affairs has not made the contribution provided for in this section by June 30, 2002, the moneys appropriated in this section shall revert to the rebuild Iowa infrastructure fund.

Section 8.39 shall not apply to the appropriation in this section.

Approved January 27, 2000

CHAPTER 1216

APPROPRIATIONS — TRANSPORTATION

H.F. 2538

AN ACT relating to and making transportation and other infrastructure-related appropriations to the state department of transportation, including allocation and use of moneys from the general fund of the state, road use tax fund, and primary road fund, and including fees for certain registration plates, allowing the department to conduct a pilot project, and providing for the nonreversion of certain moneys, and providing an effective date.

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

STATE DEPARTMENT OF TRANSPORTATION

Section 1. There is appropriated from the general fund of the state to the state department of transportation for the fiscal year beginning July 1, 2000, and ending June 30, 2001, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. For airport engineering studies and improvement projects as provided in chapter 328:
..... $ 2,475,000

Of the amount appropriated in this subsection, $25,000 shall be allocated to the Iowa civil air patrol.

2. For the rail assistance program and to provide economic development project funding:
..... $ 662,000

Sec. 2. There is appropriated from the road use tax fund to the state department of transportation for the fiscal year beginning July 1, 2000, and ending June 30, 2001, the following amounts, or so much thereof as is necessary, for the purposes designated:

1. For the payment of costs associated with the production of driver's licenses, as defined in section 321.1, subsection 20A:
..... $ 2,103,000

Notwithstanding section 8.33, unencumbered or unobligated funds remaining on June 30, 2001, from the appropriation made in this subsection, shall not revert, but shall remain available for the following fiscal years for the purposes specified in this subsection.

2. For salaries, support, maintenance, and miscellaneous purposes:

a. Operations and finance:
..... $ 5,267,313

b. Administrative services:
..... $ 946,149

c. Planning and programming:
..... $ 511,728
d. Motor vehicles:
..... $ 26,636,290
3. For payments to the department of personnel for expenses incurred in administering the merit system on behalf of the state department of transportation, as required by chapter 19A:
..... $ 37,500
4. Unemployment compensation:
..... $ 17,000
5. For payments to the department of personnel for paying workers' compensation claims under chapter 85 on behalf of employees of the state department of transportation:
..... $ 77,000
6. For payment to the general fund of the state for indirect cost recoveries:
..... $ 92,000
7. For reimbursement to the auditor of state for audit expenses as provided in section 11.5B:
..... $ 42,000
8. For costs associated with the county issuance of driver's licenses:
..... $ 20,000
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 improvements to the scale facilities in Clarke and Worth counties:
..... $ 940,000
Notwithstanding section 8.33, moneys appropriated in this subsection that remain unencumbered or unobligated at the close of the fiscal year shall not revert but shall remain available for expenditure for the purpose designated until the close of the fiscal year that begins July 1, 2003.
11. For up to the following amount for membership in the North America's superhighway corridor coalition:
..... $ 50,000

Sec. 3. There is appropriated from the primary road fund to the state department of transportation for the fiscal year beginning July 1, 2000, and ending June 30, 2001, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:
1. For salaries, support, maintenance, miscellaneous purposes and the following full-time equivalent positions:
a. Operations and finance:
..... $ 32,356,351
..... FTEs 310.00
b. Administrative services:
..... $ 5,812,051
..... FTEs 96.50
c. Planning and programming:
..... $ 9,713,612
..... FTEs 183.00
d. Project development:
..... $ 59,063,194
..... FTEs 1,127.00
Not more than $421,000, plus an allocation for salary adjustment, shall be expended from the highway beautification fund for salaries and benefits for not more than 9.00 FTEs.
e. Maintenance:
..... $ 105,609,152
..... FTEs 1,580.00
f. Motor vehicles:
..... $ 1,057,812
..... FTEs 563.00

2. For deposit in the state department of transportation's highway materials and equipment revolving fund established by section 307.47 for funding the increased replacement cost of equipment:

..... $ 6,340,000

Not more than $3,575,000 plus an allocation for salary adjustment, from the highway materials and equipment revolving fund, shall be expended for salaries and benefits for not more than 89.00 FTEs.

3. For payments to the department of personnel for expenses incurred in administering the merit system on behalf of the state department of transportation, as required by chapter 19A:

..... $ 712,500

4. Unemployment compensation:

..... $ 328,000

5. For payments to the department of personnel for paying workers' compensation claims under chapter 85 on behalf of the employees of the state department of transportation:

..... $ 1,463,000

6. For disposal of hazardous wastes from field locations and the central complex:

..... $ 1,000,000

7. For payment to the general fund for indirect cost recoveries:

..... $ 658,000

8. For reimbursement to the auditor of state for audit expenses as provided in section 11.5B:

..... $ 255,000

9. For improvements to upgrade the handling of wastewater at various field facilities throughout the state:

..... $ 400,000

10. For replacement of roofs according to the department's priority list at field facilities throughout the state:

..... $ 400,000

11. For planning, design, and construction of field garage facilities in Sheldon and Allison:

..... $ 1,500,000

12. For the federal Americans With Disabilities Act accessibility improvements to department facilities throughout the state:

..... $ 200,000

13. For various repair projects to the northwest building on the Ames complex, including roof repairs and electrical work:

..... $ 900,000

14. For replacement of the radiant heating systems in field garage facilities throughout the state:

..... $ 200,000

15. For tuckpointing and repair of the brick exteriors of office buildings and field garage facilities throughout the state:

..... $ 100,000

16. For assistance in purchasing biodegradable hydraulic fluids manufactured from soybeans pursuant to sections 18.22 and 307.21:

..... $ 15,000

17. For assistance in purchasing biodiesel fuel for use in heavy-duty fleet vehicles of the department:

..... $ 20,000

Notwithstanding section 8.33, moneys appropriated in subsections 9 through 17 that remain unencumbered or unobligated at the close of the fiscal year shall not revert but shall remain available for expenditure for the purposes designated until the close of the fiscal year that begins July 1, 2003.

Sec. 4. Section 321.105, unnumbered paragraph 5, Code 1999, is amended to read as follows:

Seriously disabled veterans who have been provided with an automobile or other vehicle by the United States government under the provisions of sections 1901 to 1903, Title 38 of

the United States Code, 38 U.S.C. § 1901 et seq. (1970), shall be exempt from payment of any automobile registration fee provided in this chapter, and shall be provided, without fee, with a registration plate. The disabled veteran, to be able to claim the above benefit, must be a resident of the state of Iowa. The disabled veteran may obtain a special or personalized plate under section 321.34 by paying the difference between the fee for a regular registration plate and the fee for the special or personalized registration plate.

Sec. 5. REFUNDS OF FEES — PILOT PROJECT. Notwithstanding the obligation to collect a fee for a renewal or duplicate of a nonoperator's identification card or a driver's license pursuant to section 321.190 or 321.191, the state department of transportation may conduct a pilot project for waiving or refunding such fees pursuant to rules adopted by the department. The department may conduct the pilot project at two driver's license stations in the state. In conducting the pilot project the department may waive payment of or refund all or a portion of the fees to an applicant for a renewal or a duplicate if the department determines that the service standard for timely issuance has not been met or an error on the license or identification card requires the applicant to return to the driver's license station. The decision of the department not to issue a refund is final and not subject to review pursuant to the provisions of the Iowa administrative procedure Act in chapter 17A.

Sec. 6. TEMPORARY TRANSFER OF RISE FUND MONEYS. Notwithstanding provisions to the contrary in chapter 315, if the state transportation commission receives and files a letter from the director of transportation certifying that the state department of transportation's cash flow funding may be inadequate to meet anticipated road construction costs which arise during the period beginning on the effective date of this Act through June 30, 2001, the commission may authorize the temporary transfer of funds from the revitalize Iowa's sound economy (RISE) fund to the primary road fund. Transferred funds shall be repaid to the RISE fund within six months of transfer. The commission shall manage the RISE fund to ensure that funds will be available to meet contract obligations on approved RISE projects.

Sec. 7. EFFECTIVE DATE. Section 6 of this Act, being deemed of immediate importance, takes effect upon enactment.

Approved April 7, 2000

CHAPTER 1217

APPROPRIATIONS — ENERGY CONSERVATION PROGRAMS FUNDING

S.F. 2416

AN ACT relating to energy conservation including making appropriations of petroleum overcharge funds.

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

Section 1. There is appropriated from those funds designated within the energy conservation trust created in section 473.11, for disbursement pursuant to section 473.11, to the following named agencies for the fiscal year beginning July 1, 2000, and ending June 30, 2001, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. To the division of community action agencies of the department of human rights for qualifying energy conservation programs for low-income persons, including but not limited to energy weatherization projects, which target the highest energy users, and including administrative costs:

a. To be expended first from the office of hearings and appeals second-stage settlement (OHA) fund and the Warner/Imperial fund and the Diamond Shamrock fund and then the Stripper Well fund:

..... $ 350,000

b. To be expended from the Exxon fund:

..... $ 40,000

2. To the department of natural resources for the following purposes:

a. For the state energy program, from the Exxon fund:

..... $ 60,000

b. For administration of petroleum overcharge programs from the Stripper Well fund, not to exceed the following amount:

..... $ 150,000

Notwithstanding section 8.33, the unencumbered or unobligated moneys remaining at the end of any fiscal year from the appropriations made in subsections 1 and 2 shall not revert but shall be available for expenditure during subsequent fiscal years until expended for the purposes for which originally appropriated.

Approved April 14, 2000

CHAPTER 1218

MERCHANT MARINE BONUS FUND

S.F. 2141

AN ACT creating a merchant marine bonus fund and making an appropriation.

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

Section 1. Section 35A.8, subsection 4, Code Supplement 1999, is amended by adding the following new paragraph:

NEW PARAGRAPH. f. A merchant marine bonus fund is created in the state treasury. The merchant marine 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 merchant marine bonus fund shall be credited to the merchant marine bonus fund. Section 8.33 does not apply to moneys appropriated to the merchant marine bonus fund.

Sec. 2. MERCHANT MARINE BONUS APPROPRIATION. There is appropriated from the general fund of the state to the merchant marine bonus fund for the fiscal year beginning July 1, 2000, and ending June 30, 2001, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For the payment of a compensation bonus to World War II merchant marine veterans as provided in section 35A.8:

..... $ 150,000

Approved April 20, 2000

CHAPTER 1219

COMPENSATION FOR PUBLIC EMPLOYEES

S.F. 2450

AN ACT relating to the compensation and benefits for public officials and employees, providing for related matters, and making appropriations.

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

Section 1. STATE COURTS — JUSTICES, JUDGES, AND MAGISTRATES.

1. The salary rates specified in subsection 2 are for the fiscal year beginning July 1, 2000, effective for the pay period beginning June 23, 2000, 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 the 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, 2000, effective with the pay period beginning June 23, 2000, and for subsequent pay periods.

a. Chief justice of the supreme court:
..... $ 117,400

b. Each justice of the supreme court:
..... $ 113,200

c. Chief judge of the court of appeals:
..... $ 113,100

d. Each associate judge of the court of appeals:
..... $ 108,900

e. Each chief judge of a judicial district:
..... $ 107,900

f. Each district judge except the chief judge of a judicial district:
..... $ 103,500

g. Each district associate judge:
..... $ 90,200

h. Each associate juvenile judge:
..... $ 90,200

i. Each associate probate judge:
..... $ 90,200

j. Each judicial magistrate:
..... $ 26,900

k. Each senior judge:
..... $ 6,000

Sec. 2. SALARY RATE LIMITS. Persons receiving the salary rates established under section 1 of this Act shall not receive any additional salary adjustments provided by this Act.

Sec. 3. ELECTIVE EXECUTIVE OFFICIALS.

1. The annual salary rates specified in this section are effective for the fiscal year beginning July 1, 2000, with the pay period beginning June 23, 2000, and for subsequent fiscal years until otherwise provided by the general assembly. The salaries provided for in this section shall be paid from funds appropriated to the department or agency specified in this section from the salary adjustment fund or if the appropriation is not sufficient, from the funds appropriated to the department or agency pursuant to any Act of the general assembly.

2. The following annual salary rates shall be paid to the person holding the position indicated:

a. OFFICE OF THE GOVERNOR
(1) Salary for the governor:
..... $ 107,482
(2) Salary for the lieutenant governor:
..... $ 76,698
b. DEPARTMENT OF AGRICULTURE AND LAND STEWARDSHIP
Salary for the secretary of agriculture:
..... $ 87,990
c. DEPARTMENT OF JUSTICE
Salary for the attorney general:
..... $ 105,430
d. OFFICE OF THE AUDITOR OF STATE
Salary for the auditor of state:
..... $ 87,990
e. OFFICE OF THE SECRETARY OF STATE
Salary for the secretary of state:
..... $ 87,990
f. OFFICE OF THE TREASURER OF STATE
Salary for the treasurer of state:
..... $ 87,990

Sec. 4. 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 section 5 of this Act within the range provided, by considering, among other items, the experience of the individual in the position, changes in the duties of the position, the incumbent's performance of assigned duties, and subordinates' salaries. If a department charged with information technology is created by the general assembly, the governor shall establish a salary for the director of the department within salary range 9 as provided in section 5 of this Act. However, the attorney general shall establish the salary for the consumer advocate, the chief justice of the supreme court shall establish the salary for the state court administrator, the ethics and campaign disclosure board shall establish the salary of the executive director, and the state fair board shall establish the salary of the secretary of the state fair board, each within the salary range provided in section 5 of this Act.

The governor, in establishing salaries as provided in section 5 of this Act, shall take into consideration other employee benefits which may be provided for an individual including, but not limited to, housing.

A person whose salary is established pursuant to section 5 of this Act and who is a full-time, year-round employee of the state shall not receive any other remuneration from the state or from any other source for the performance of that person's duties unless the additional remuneration is first approved by the governor or authorized by law. However, this provision does not exclude the reimbursement for necessary travel and expenses incurred in the performance of duties or fringe benefits normally provided to employees of the state.

Sec. 5. STATE OFFICERS — SALARY RATES AND RANGES. The following annual salary ranges are effective for the positions specified in this section for the fiscal year beginning July 1, 2000, and for subsequent fiscal years until otherwise provided by the general assembly. The governor or other person designated in section 4 of this Act shall determine the salary to be paid to the person indicated at a rate within the salary ranges indicated from funds appropriated by the general assembly for that purpose.

1. The following are salary ranges 1 through 5 for the fiscal year beginning July 1, 2000, effective with the pay period beginning June 23, 2000:

SALARY RANGES	Minimum	Maximum
a. Range 1	$ 8,800	$ 29,000
b. Range 2	$ 32,200	$ 58,500
c. Range 3	$ 44,100	$ 68,200
d. Range 4	$ 53,100	$ 78,000
e. Range 5	$ 62,400	$ 87,800

2. The following are range 1 positions: There are no range 1 positions for the fiscal year beginning July 1, 2000.

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 African-Americans, the division of deaf services, and the division of Latino affairs of the department of human rights, and administrator of the division of professional licensing and regulation of the department of commerce.

4. The following are range 3 positions: administrator of the division of emergency management of the department of public defense, administrator of the division of criminal and juvenile justice planning of the department of human rights, administrator of the division of community action agencies of the department of human rights, executive director of the commission of veterans affairs, and chairperson and members of the employment appeal board of the department of inspections and appeals.

5. The following are range 4 positions: superintendent of banking, superintendent of credit unions, administrator of the alcoholic beverages division of the department of commerce, state public defender, and chairperson, vice chairperson, and members of the board of parole.

6. The following are range 5 positions: consumer advocate, drug policy coordinator, labor commissioner, workers' compensation commissioner, administrator of the historical division of the department of cultural affairs, administrator of the public broadcasting division of the department of education, and commandant of the veterans home.

7. The following are salary ranges 6 through 9 for the fiscal year beginning July 1, 2000, effective with the pay period beginning June 23, 2000:

SALARY RANGES	Minimum	Maximum
a. Range 6	$ 48,200	$ 78,000
b. Range 7	$ 66,000	$ 88,500
c. Range 8	$ 70,800	$ 102,700
d. Range 9	$ 79,000	$ 122,500

8. The following are range 6 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, and executive director of the ethics and campaign disclosure board.

9. The following are range 7 positions: director of the department of cultural affairs, director of the department of elder affairs, and director of the law enforcement academy.

10. The following are range 8 positions: the administrator of the state racing and gaming commission of the department of inspections and appeals, director of the department of inspection and appeals, director of the department of general services, director of the department of personnel, commissioner of public safety, commissioner of insurance, executive director of the Iowa finance authority, director of revenue and finance, director of the department of natural resources, director of the department of corrections, 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.

11. The following are range 9 positions: director of the department of education, director of human services, director of the department of economic development, executive director of the state board of regents, director of the state department of transportation, director of the department of workforce development, lottery commissioner, director of public health,

the state court administrator, secretary of the state fair board, and the director of the department of management.

Sec. 6. PUBLIC EMPLOYMENT RELATIONS BOARD.

1. The salary rates specified in this section are effective for the fiscal year beginning July 1, 2000, with the pay period beginning June 23, 2000, 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 public employment relations board from the salary adjustment fund, or if the appropriation is not sufficient from funds appropriated to the public employment relations board pursuant to any other Act of the general assembly.

2. The following annual salary rates shall be paid to the persons holding the positions indicated:

a. Chairperson of the public employment relations board:
..... $ 68,700

b. Two members of the public employment relations board:
..... $ 64,000

Sec. 7. 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, for the fiscal year beginning July 1, 2000, and ending June 30, 2001, the amount of $42,173,997, or so much thereof as may be necessary, to fully fund the following annual pay adjustments, expense reimbursements, and related benefits:

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 university of northern Iowa faculty bargaining unit.

7. The collective bargaining agreement negotiated pursuant to chapter 20 for employees in the clerical bargaining unit.

8. The collective bargaining agreement negotiated pursuant to chapter 20 for employees in the professional social services bargaining unit.

9. The collective bargaining agreement negotiated pursuant to chapter 20 for employees in the community-based corrections bargaining unit.

10. The collective bargaining agreement negotiated pursuant to chapter 20 for employees in the judicial branch of government bargaining unit.

11. The collective bargaining agreement negotiated pursuant to chapter 20 for employees in the patient care bargaining unit.

12. The collective bargaining agreement negotiated pursuant to chapter 20 for employees in the science 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 sections 8 and 9 of this Act for employees not covered by a collective bargaining agreement.

Sec. 8. NONCONTRACT STATE EMPLOYEES — GENERAL.

1. a. For the fiscal year beginning July 1, 2000, the maximum salary levels of all pay plans provided for in section 19A.9, subsection 2, as they exist for the fiscal year ending June 30, 2000, shall be increased by 3 percent for the pay period beginning June 23, 2000, and any additional changes in the pay plans shall be approved by the governor.

b. For the fiscal year beginning July 1, 2000, employees may receive a step increase or the equivalent of a step increase.

2. The pay plans for state employees who are exempt from chapter 19A and who are included in the department of revenue and finance's centralized payroll system shall be increased in the same manner as provided in subsection 1, and any additional changes in any executive branch pay plans shall be approved by the governor.

3. This section does not apply to members of the general assembly, board members, commission members, salaries of persons set by the general assembly pursuant to this Act, or set by the governor, other persons designated in section 4 of this Act, employees designated under section 19A.3, subsection 5, and employees covered by 581 IAC 4.6(3).

4. The pay plans for the bargaining eligible employees of the state shall be increased in the same manner as provided in subsection 1, and any additional changes in such executive branch pay plans shall be approved by the governor. As used in this section, "bargaining eligible employee" means an employee who is eligible to organize under chapter 20, but has not done so.

5. The policies for implementation of this section shall be approved by the governor.

Sec. 9. STATE EMPLOYEES — STATE BOARD OF REGENTS. Funds from the appropriation in section 7 of this Act shall be allocated to the state board of regents for the purposes of providing increases for state board of regents employees covered by section 7 of this Act and for 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 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 section 7, subsection 6, of this Act.

Sec. 10. 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, 2000, and ending June 30, 2001, the following amount, or so much thereof as may be necessary, to be used for the purpose designated:

To supplement other funds appropriated by the general assembly:

..... $ 1,113,641

2. There is appropriated from the primary road fund to the salary adjustment fund, for the fiscal year beginning July 1, 2000, and ending June 30, 2001, 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:

..... $ 5,682,160

3. Except as otherwise provided in this Act, the amounts appropriated in subsections 1 and 2 shall be used to fund the annual pay adjustments, expense reimbursements, and related benefits for public employees as provided in this Act.

Sec. 11. SPECIAL FUNDS — AUTHORIZATION. To departmental revolving, trust, or special funds, except for the primary road fund or the road use tax fund, for which the general assembly has established an operating budget, a supplemental expenditure authorization is provided, unless otherwise provided, in an amount necessary to fund salary adjustments as otherwise provided in this Act.

Sec. 12. GENERAL FUND SALARY MONEYS. Funds appropriated from the general fund of the state in this Act relate only to salaries supported from general fund appropriations of the state.

Sec. 13. FEDERAL FUNDS APPROPRIATED. All federal grants to and the federal receipts of the agencies affected by this Act which are received and may be expended for purposes of this Act are appropriated for those purposes and as set forth in the federal grants or receipts.

Sec. 14. USE OF SURPLUS HEALTH INSURANCE FUNDS. The executive council shall transfer an amount, as determined by the department of management, from the health insurance surplus account to the health insurance premium operating account for the fiscal year beginning July 1, 2000, to reduce insurance premiums. Any amount remaining in the health insurance premium operating account at the end of the fiscal year beginning July 1, 2000, shall be transferred to the health insurance surplus account.

Sec. 15. 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. 16. SALARY MODEL COORDINATOR. Of the funds appropriated by section 7 of this Act, $133,800 for the fiscal year beginning July 1, 2000, is allocated to the department of management for salary and support of the salary model coordinator who shall work in conjunction with the legislative fiscal bureau to maintain the state's salary model used for analyzing, comparing, and projecting state employee salary and benefit information, including information relating to employees of the state board of regents. The department of revenue and finance, the department of personnel, the five institutions under the jurisdiction of the state board of regents, the eight judicial district departments of correctional services, and the state department of transportation shall provide salary data to the department of management and the legislative fiscal bureau to operate the state's salary model. The format and frequency of provision of the salary data shall be determined by the department of management and the legislative fiscal bureau. The information shall be used in collective bargaining processes under chapter 20 and in calculating the funding needs contained within the annual salary adjustment legislation. A state employee organization as defined in section 20.3, subsection 4, may request information produced by the model, but the information provided shall not contain information attributable to individual employees.

Sec. 17. Section 546.2, subsection 2, Code 1999, is amended to read as follows:

2. The chief administrative officer of the department is the director. The director shall be appointed ~~annually~~ by the governor from among those individuals who serve as heads of the divisions within the department. ~~The appointment shall rotate among the division heads such that the division head of any one division shall not be appointed to be the director for a second year until such time as each division head has served as the director.~~ A division head appointed to be the director shall fulfill the responsibilities and duties of the director in addition to the individual's responsibilities and duties as the head of a division. ~~However, the administrator of the alcoholic beverages division shall serve as director until June 30, 1995.~~ The director shall serve at the pleasure of the governor. If the office of director becomes vacant, the vacancy shall be filled in the same manner as the original appointment was made.

Sec. 18. Section 7H.1, Code Supplement 1999, is repealed.

Approved April 21, 2000

CHAPTER 1220

FEDERAL BLOCK GRANT APPROPRIATIONS

H.F. 2533

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 and providing an effective date.

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

Section 1. SUBSTANCE ABUSE APPROPRIATION.

1. There is appropriated from the fund created by section 8.41 to the Iowa department of public health for the federal fiscal year beginning October 1, 2000, and ending September 30, 2001, the following amount:

..... $ 12,542,219

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, 1999, 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. The funds remaining from the appropriation made in subsection 1 shall be allocated as follows:

a. At least 20 percent of the allocation shall be for prevention programs.

b. At least 35 percent of the allocation shall be spent on drug treatment and prevention activities.

c. At least 35 percent of the allocation shall be spent on alcohol treatment and prevention activities.

3. The substance abuse block grant funds received from the federal government in excess of the amount of the anticipated federal fiscal year 2000-2001 award appropriated in subsection 1 shall be distributed at least 50 percent to treatment programs and 50 percent to prevention programs except that, based upon federal guidelines, the total amount of the excess awarded to prevention programs shall not exceed $1,000,000.

Sec. 2. COMMUNITY MENTAL HEALTH SERVICES APPROPRIATION.

1. a. There is appropriated from the fund created by section 8.41 to the Iowa department of human services for the federal fiscal year beginning October 1, 2000, and ending September 30, 2001, the following amount:

..... $ 3,095,824

b. Funds appropriated in this subsection are the anticipated funds to be received from the federal government for the designated federal fiscal year under 42 U.S.C., chapter 6A, subchapter XVII, which provides for the community mental health services block grant. The department shall expend the funds appropriated in this subsection as provided in the federal law making the funds available and in conformance with chapter 17A.

c. The administrator of the division of mental health and developmental disabilities of the department of human services shall allocate not less than 95 percent of the amount of

the block grant to eligible community mental health services providers for carrying out the plan submitted to and approved by the federal substance abuse and mental health services administration for the fiscal year involved.

2. An amount not exceeding 5 percent of the funds appropriated in subsection 1 shall be used by the department of human services for administrative expenses. From the funds set aside by this subsection for administrative expenses, the division of mental health and developmental disabilities shall pay to the auditor of state an amount sufficient to pay the cost of auditing the use and administration of the state's portion of the funds appropriated in subsection 1. The auditor of state shall bill the division of mental health and developmental disabilities for the costs of the audits.

Sec. 3. MATERNAL AND CHILD HEALTH SERVICES APPROPRIATIONS.

1. There is appropriated from the fund created by section 8.41 to the Iowa department of public health for the federal fiscal year beginning October 1, 2000, and ending September 30, 2001, the following amount:

..... $ 6,968,187

The funds appropriated in this subsection are the funds anticipated to be received from the federal government for the designated federal fiscal year under 42 U.S.C., chapter 7, subchapter V, which provides for the maternal and child health services block grant. The department shall expend the funds appropriated in this subsection as provided in the federal law making the funds available and in conformance with chapter 17A.

Of the funds appropriated in this subsection, an amount not exceeding $45,700 shall be used for audits.

Funds appropriated in this subsection shall not be used by the university of Iowa hospitals and clinics for indirect costs.

2. An amount not exceeding $150,000 of the funds appropriated in subsection 1 to the Iowa department of public health shall be used by the Iowa department of public health for administrative expenses in addition to the amount to be used for audits in subsection 1.

The departments of public health, human services, and education and the university of Iowa's mobile and regional child health specialty clinics shall continue to pursue to the maximum extent feasible the coordination and integration of services to women and children.

3. a. Sixty-three percent of the remaining funds appropriated in subsection 1 shall be allocated to supplement appropriations for maternal and child health programs within the Iowa department of public health. Of these funds, $284,548 shall be set aside for the statewide perinatal care program.

b. Thirty-seven percent of the remaining funds appropriated in subsection 1 shall be allocated to the university of Iowa hospitals and clinics under the control of the state board of regents for mobile and regional child health specialty clinics. The university of Iowa hospitals and clinics shall not receive an allocation for indirect costs from the funds for this program. Priority shall be given to establishment and maintenance of a statewide system of mobile and regional child health specialty clinics.

4. The Iowa department of public health shall administer the statewide maternal and child health program and the crippled children's program by conducting mobile and regional child health specialty clinics and conducting other activities to improve the health of low-income women and children and to promote the welfare of children with actual or potential handicapping conditions and chronic illnesses in accordance with the requirements of Title V of the federal Social Security Act.

Sec. 4. PREVENTIVE HEALTH AND HEALTH SERVICES APPROPRIATIONS.

1. There is appropriated from the fund created by section 8.41 to the Iowa department of public health for the federal fiscal year beginning October 1, 2000, and ending September 30, 2001, the following amount:

..... $ 1,945,069

Funds appropriated in this subsection are the funds anticipated to be received from the federal government for the designated federal fiscal year under 42 U.S.C., chapter 6A, subchapter XVII, which provides for the preventive health and health services block grant. The department shall expend the funds appropriated in this subsection as provided in the federal law making the funds available and in conformance with chapter 17A.

Of the funds appropriated in this subsection, an amount not exceeding $5,522 shall be used for audits.

2. Of the funds appropriated in subsection 1, the specific amount of funds stipulated by the notice of block grant award shall be allocated for services to victims of sex offenses and for rape prevention education.

3. An amount not exceeding $94,670 of the remaining funds appropriated in subsections 1 and 2 shall be used by the Iowa department of public health for administrative expenses in addition to the amount to be used for audits in subsection 1.

4. After deducting the funds allocated in subsections 1, 2, and 3, the remaining funds appropriated in subsection 1 shall be used by the department for healthy people 2010/healthy Iowans 2010 program objectives, preventive health advisory committee, and risk reduction services, including nutrition programs, health incentive programs, chronic disease services, emergency medical services, monitoring of the fluoridation program and start-up fluoridation grants, and acquired immune deficiency syndrome services. The moneys specified in this subsection shall not be used by the university of Iowa hospitals and clinics or by the state hygienic laboratory for the funding of indirect costs. Of the funds used by the department under this subsection, an amount not exceeding $90,000 shall be used for the monitoring of the fluoridation program and for start-up fluoridation grants to public water systems, and an amount not exceeding $50,000 shall be used to provide chlamydia testing.

Sec. 5. DRUG CONTROL AND SYSTEM IMPROVEMENT GRANT PROGRAM APPROPRIATION.

1. There is appropriated from the fund created in section 8.41 to the office of the governor for the drug enforcement and abuse prevention coordinator[1] for the federal fiscal year beginning October 1, 2000, and ending September 30, 2001, the following amount:

..... $ 5,834,000

Funds appropriated in this subsection are the anticipated funds to be received from the federal government for the designated fiscal year under 42 U.S.C., chapter 46, subchapter V, which provides for the drug control and system improvement grant program. The drug enforcement and abuse prevention 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 7 percent of the funds appropriated in subsection 1 shall be used by the drug enforcement and abuse prevention coordinator for administrative expenses. From the funds set aside by this subsection for administrative expenses, the drug enforcement and abuse prevention coordinator shall pay to the auditor of state an amount sufficient to pay the cost of auditing the use and administration of the state's portion of the funds appropriated in subsection 1.

Sec. 6. STOP VIOLENCE AGAINST WOMEN GRANT PROGRAM APPROPRIATION.

1. There is appropriated from the fund created in section 8.41 to the office of the governor for the drug enforcement and abuse prevention coordinator[2] for the federal fiscal year beginning October 1, 2000, and ending September 30, 2001, the following amount:

..... $ 1,670,000

Funds appropriated in this subsection are the anticipated funds to be received from the federal government for the designated fiscal year under 42 U.S.C., chapter 46, subchapter XII-H, which provides for grants to combat violent crimes against women. The drug enforcement and abuse prevention coordinator shall expend the funds appropriated in this

[1] See chapter 1232, §92 herein
[2] See chapter 1232, §92 herein

subsection as provided in the federal law making the funds available and in conformance with chapter 17A.

2. An amount not exceeding 5 percent of the funds appropriated in subsection 1 shall be used by the drug enforcement and abuse prevention coordinator for administrative expenses. From the funds set aside by this subsection for administrative expenses, the drug enforcement and abuse prevention coordinator shall pay to the auditor of the state an amount sufficient to pay the cost of auditing the use and administration of the state's portion of the funds appropriated in subsection 1.

Sec. 7. LOCAL LAW ENFORCEMENT BLOCK GRANT APPROPRIATION.

1. There is appropriated from the fund created in section 8.41 to the office of the governor for the drug enforcement and abuse prevention coordinator[3] for the federal fiscal year beginning October 1, 2000, and ending September 30, 2001, the following amount:

..... $ 320,100

Funds appropriated in this subsection are the funds anticipated to be received from the federal government for the designated federal fiscal year under annual federal appropriations which provide for grants to reduce crime and improve public safety. The drug enforcement and abuse prevention coordinator shall expend the funds appropriated in this subsection as provided in the federal law making the funds available and in conformance with chapter 17A.

2. An amount not exceeding 3 percent of the funds appropriated in subsection 1 shall be used by the drug enforcement and abuse prevention coordinator for administrative expenses. From the funds set aside by this subsection for administrative expenses, the drug enforcement and abuse prevention coordinator shall pay to the auditor of state an amount sufficient to pay the cost of auditing the use and administration of the state's portion of the funds appropriated in subsection 1.

Sec. 8. RESIDENTIAL SUBSTANCE ABUSE TREATMENT FOR STATE PRISONERS FORMULA GRANT PROGRAM. There is appropriated from the fund created in section 8.41 to the office of the governor for the drug enforcement and abuse prevention coordinator[4] for the federal fiscal year beginning October 1, 2000, and ending September 30, 2001, the following amount:

..... $ 520,237

Funds appropriated in this section are the funds anticipated to be received from the federal government for the designated federal fiscal year under 42 U.S.C., chapter 136, which provides grants for substance abuse treatment programs in state and local correctional facilities. The drug enforcement and abuse prevention coordinator shall expend the funds appropriated in this section as provided in the federal law making the funds available and in conformance with chapter 17A.

Sec. 9. COMMUNITY SERVICES APPROPRIATIONS.

1. a. There is appropriated from the fund created by section 8.41 to the division of community action agencies of the department of human rights for the federal fiscal year beginning October 1, 2000, and ending September 30, 2001, the following amount:

..... $ 5,676,277

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

[3] See chapter 1232, §92 herein

[4] See chapter 1232, §92 herein

eligible agency shall receive a minimum allocation of not less than $100,000. The minimum allocation shall be achieved by redistributing increased funds from agencies experiencing a greater share of available funds. The funds shall be distributed on the basis of the poverty-level population in the area represented by the community action areas compared to the size of the poverty-level population in the state.

2. An amount not exceeding 4 percent of the funds appropriated in subsection 1 shall be used by the division of community action agencies of the department of human rights for administrative expenses. From the funds set aside by this subsection for administrative expenses, the division of community action agencies of the department of human rights shall pay to the auditor of state an amount sufficient to pay the cost of auditing the use and administration of the state's portion of the funds appropriated in subsection 1. The auditor of state shall bill the division of community action agencies for the costs of the audits.

Sec. 10. COMMUNITY DEVELOPMENT APPROPRIATIONS.

1. There is appropriated from the fund created by section 8.41 to the department of economic development for the federal fiscal year beginning October 1, 2000, and ending September 30, 2001, the following amount:

..... $ 30,038,000

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 $1,401,520 for the federal fiscal year beginning October 1, 2000, 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 $700,760 for the federal fiscal year beginning October 1, 2000, of funds appropriated in subsection 1 and a matching contribution from the state equal to $600,760 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.

3. There is appropriated from the fund created by section 8.41 to the department of economic development for the fiscal year beginning October 1, 1999, and ending September 30, 2000, the following amount:

..... $ 3,216,000

Funds appropriated in this subsection are community development block grant moneys awarded to the state under Pub. L. No. 105-174, the Federal 1998 Supplemental Appropriations and Recissions Act. 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. An amount not exceeding 2 percent of the funds awarded shall be used by the department for administrative expenses. From the funds set aside 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 this subsection retroactively to October 1, 1997.

Sec. 11. LOW-INCOME HOME ENERGY ASSISTANCE APPROPRIATIONS.

1. There is appropriated from the fund created by section 8.41 to the division of community action agencies of the department of human rights for the federal fiscal year beginning October 1, 2000, and ending September 30, 2001, the following amount:

..... $ 19,951,229

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. At least 15 percent of the amount appropriated in this section that is actually received shall be used for residential weatherization or other related home repairs for low-income households. Of this allocation amount, not more than 10 percent may be used for administrative expenses. In order to receive low-income home energy assistance program funding, the head of an eligible household must be willing to allow residential weatherization or other related home repairs. However, if the eligible household is located in rental property, the unwillingness of the property owner to allow residential weatherization or other related home repairs shall not prevent the eligible household from receiving low-income home energy assistance program funding.

3. After subtracting the allocation in subsection 2, $1,695,854, or 10 percent of the remainder of the appropriation in this section actually received, whichever is less, is allocated for administrative expenses of the low-income home energy assistance program. Not more than $290,000 of the amount allocated in this subsection shall be used for administrative expenses of the division. The costs of auditing the use and administration of the portion of the appropriation in this section that is retained by the state shall be paid from the amount allocated in this subsection to the division. The auditor of state shall bill the division for the audit costs.

4. The remainder of the appropriation in this section following the allocations made in subsections 2 and 3, shall be used to help eligible households as defined in 42 U.S.C., chapter 94, subchapter II, to meet home energy costs.

5. Not more than 10 percent of the amount appropriated in this section that is actually received, may be carried forward for use in the succeeding federal fiscal year.

6. Expenditures for assessment and resolution of energy problems shall be limited to 5 percent of the amount appropriated in this section that is actually received.

Sec. 12. SOCIAL SERVICES APPROPRIATIONS.

1. There is appropriated from the fund created by section 8.41 to the department of human services for the federal fiscal year beginning October 1, 2000, and ending September 30, 2001, the following amount:

..... $ 18,812,027

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 $1,196,211 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, 2000, for the following programs within the department of human services:

a. Field operations:

..... $ 7,154,673

b. Child and family services:

..... $ 1,070,140

c. Local administrative costs and other local services:
..... $ 758,773
d. Volunteers:
..... $ 82,927
e. Community-based services:
..... $ 95,365
f. MH/MR/DD/BI community service (local purchase):
..... $ 8,453,938

Sec. 13. SOCIAL SERVICES BLOCK GRANT PLAN. The department of human services during each state fiscal year shall develop a plan for the use of federal social services block grant funds for the subsequent state fiscal year.

The proposed plan shall include all programs and services at the state level which the department proposes to fund with federal social services block grant funds, and shall identify state and other funds which the department proposes to use to fund the state programs and services.

The proposed plan shall also include all local programs and services which are eligible to be funded with federal social services block grant funds, the total amount of federal social services block grant funds available for the local programs and services, and the manner of distribution of the federal social services block grant funds to the counties. The proposed plan shall identify state and local funds which will be used to fund the local programs and services.

The proposed plan shall be submitted with the department's budget requests to the governor and the general assembly.

Sec. 14. PROJECTS FOR ASSISTANCE IN TRANSITION FROM HOMELESSNESS. 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, 2000, and ending September 30, 2001, the division of mental health and developmental disabilities of 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 are chronically mentally ill and homeless or who are subject to a significant probability of becoming homeless shall do all of the following:

1. Provide community mental health services, diagnostic services, crisis intervention services, and habilitation and rehabilitation services.

2. Refer clients to medical facilities for necessary hospital services, and to entities that provide primary health services and substance abuse services.

3. Provide appropriate training to persons who provide services to persons targeted by the grant.

4. Provide case management to homeless persons.

5. Provide supportive and supervisory services to certain homeless persons living in residential settings which are not otherwise supported.

6. 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.

7. If the department has data indicating that a geographic area has a substantial number of persons with mental illness who are homeless and are not being served by an existing grantee for that area under the formula grant and the existing grantee has expressed a desire to no longer provide services or the grantee's contract was terminated by the department for nonperformance, the department shall issue a request for proposals to replace the grantee. Otherwise, the department shall maximize available funding by continuing to contract to the extent possible with those persons who are grantees as of the effective date of this

subsection. The department shall issue a request for proposals if additional funding becomes available for expansion to persons who are not being served and it is not possible to utilize existing grantees.

Sec. 15. CHILD CARE AND DEVELOPMENT APPROPRIATION. There is appropriated from the fund created by section 8.41 to the department of human services for the federal fiscal year beginning October 1, 2000, and ending September 30, 2001, the following amount:
..... $ 30,389,871

Funds appropriated in this section are the funds anticipated to be received from the federal government under 42 U.S.C., chapter 105, subchapter II-B, which provides for the child care and development block grant. The department shall expend the funds appropriated in this section as provided in the federal law making the funds available and in conformance with chapter 17A.

Sec. 16. PROCEDURE FOR REDUCED FEDERAL FUNDS.

1. If the funds received from the federal government for the block grants specified in this Act are less than the amounts appropriated, the funds actually received shall be prorated by the governor for the various programs, other than for the services to victims of sex offenses and for rape prevention education under section 4, subsection 2, of this Act, for which each block grant is available according to the percentages that each program is to receive as specified in this Act. However, if the governor determines that the funds allocated by the percentages will not be sufficient to effect the purposes of a particular program, or if the appropriation is not allocated by percentage, the governor may allocate the funds in a manner which will effect to the greatest extent possible the purposes of the various programs for which the block grants are available.

2. Before the governor implements the actions provided for in subsection 1, the following procedures shall be taken:

a. The chairpersons and ranking members of the senate and house standing committees on appropriations, the appropriate chairpersons and ranking members of subcommittees of those committees, the director of the legislative service bureau, and the director of the legislative fiscal bureau shall be notified of the proposed action.

b. The notice shall include the proposed allocations, and information on the reasons why particular percentages or amounts of funds are allocated to the individual programs, the departments and programs affected, and other information deemed useful. Chairpersons notified shall be allowed at least two weeks to review and comment on the proposed action before the action is taken.

3. If the amount of moneys received from the federal government for a specific grant number specified in this Act is less than the amount appropriated, the amount appropriated shall be reduced accordingly. An annual report listing any such appropriation reduction shall be submitted to the fiscal committee of the legislative council.

Sec. 17. PROCEDURE FOR INCREASED FEDERAL FUNDS.

1. If funds received from the federal government in the form of block grants exceed the amounts appropriated in sections 1, 2, 3, 4, 5, 7, 10, and 12 of this Act, the excess shall be prorated to the appropriate programs according to the percentages specified in those sections, except additional funds shall not be prorated for administrative expenses.

2. If actual funds received from the federal government from block grants exceed the amount appropriated in section 11 of this Act for the low-income home energy assistance program, 15 percent of the excess shall be allocated to the low-income residential weatherization program.

3. If funds received from the federal government from community services block grants exceed the amount appropriated in section 9 of this Act, 100 percent of the excess is allocated to the community services block grant program.

4. If the amount of moneys received from the federal government for a specific grant number specified in this Act exceeds the amount appropriated, the excess amount is

appropriated for the purpose designated in the specific grant's appropriation. An annual report listing any such excess appropriations shall be submitted to the fiscal committee of the legislative council.

Sec. 18. PROCEDURE FOR EXPENDITURE OF ADDITIONAL FEDERAL FUNDS. If other federal grants, receipts, and funds and other nonstate grants, receipts, and funds become available or are awarded which are not available or awarded during the period in which the general assembly is in session, but which require expenditure by the applicable department or agency prior to March 15 of the fiscal year beginning July 1, 2000, and ending June 30, 2001, these grants, receipts, and funds are appropriated to the extent necessary, provided that the fiscal committee of the legislative council is notified within thirty days of receipt of the grants, receipts, or funds and the fiscal committee of the legislative council has an opportunity to comment on the expenditure of the grants, receipts, or funds.

Sec. 19. DEPARTMENT OF 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, 2000, and ending June 30, 2001, are appropriated to the department of agriculture and land stewardship for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law. The following amounts are appropriated to the department of agriculture and land stewardship for the fiscal year beginning July 1, 2000, and ending June 30, 2001:

1. For plant and animal disease and pest control, grant number 10025:
..... $ 667,099
2. For assistance for intrastate meat and poultry, grant number 10475:
..... $ 1,130,621
3. For food and drug — research grants, grant number 13103:
..... $ 110,718
4. For surface coal mining regulation, grant number 15250:
..... $ 161,414
5. For abandoned mine land reclamation, grant number 15252:
..... $ 1,539,376
6. For wetlands protection, grant number 66461:
..... $ 41,047
7. For USDA, grant number 10000:
..... $ 44,000
8. For farmers market nutrition program, grant number 10572:
..... $ 639,078
9. For performance partnership grants — pesticide use, grant number 66605:
..... $ 837,961
10. For air quality, grant number 66606:
..... $ 11,964

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, 2000, and ending June 30, 2001, 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, 2000, and ending June 30, 2001, are appropriated to the department for the blind for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law. The following amounts are appropriated to the department for the blind for the fiscal year beginning July 1, 2000, and ending June 30, 2001:

1. For vocational rehabilitation, grant number 93802:
..... $ 1,074,483

2. For assistive technology information network, grant number 84224:
..... $ 10,000
3. For rehabilitation services — basic support, grant number 84126:
..... $ 5,487,465
4. For rehabilitation training, grant number 84265:
..... $ 19,795
5. For independent living project, grant number 84169:
..... $ 49,444
6. For older blind, grant number 84177:
..... $ 185,881
7. For supported employment, grant number 84187:
..... $ 68,254
8. For field research, grant number 84133:
..... $ 149,997

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, 2000, and ending June 30, 2001, are appropriated to the Iowa state civil rights commission for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law. The following amounts are appropriated to the Iowa state civil rights commission for the fiscal year beginning July 1, 2000, and ending June 30, 2001:

1. For housing and urban development (HUD) discrimination complaints, grant number 14401:
..... $ 220,400
2. For job discrimination — special projects, grant number 30002:
..... $ 782,500

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, 2000, and ending June 30, 2001, are appropriated to the college student aid commission for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law. The following amount is appropriated to the college student aid commission for the fiscal year beginning July 1, 2000, and ending June 30, 2001:

1. For the Stafford loan program, grant number 84032:
..... $ 16,367,225
2. For student inc., grant number 84069:
..... $ 549,597

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, 2000, and ending June 30, 2001, 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, 2000, and ending June 30, 2001, are appropriated to the department of corrections for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law.

The following amounts are appropriated to the department of corrections for the fiscal year beginning July 1, 2000, and ending June 30, 2001:

1. For violent offender incarceration/truth in sentencing, grant number 16586:
..... $ 3,797,373

2. For criminal alien assistance, grant number 16572:
..... $ 761,909
3. For incarcerated youth, grant number 84331:
..... $ 98,000

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, 2000, and ending June 30, 2001, are appropriated to the department of cultural affairs for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law. The following amounts are appropriated to the department of cultural affairs for the fiscal year beginning July 1, 2000, and ending June 30, 2001:
1. For historic preservation grants-in-aid, grant number 15904:
..... $ 533,196
2. For national endowment for the arts (NEA) partner, grant number 45025:
..... $ 483,200
3. For NEA folklife, grant number 45015:
..... $ 41,265

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, 2000, and ending June 30, 2001, 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. The following amounts are appropriated to the department of economic development for the fiscal year beginning July 1, 2000, and ending June 30, 2001:
1. For department of agriculture, grant number 10000:
..... $ 114,700
2. For national Affordable Housing Act, grant number 14239:
..... $ 9,669,998
3. For Community Service Act funds, grant number 94003:
..... $ 1,060,000
4. For job opportunities and basic skills program, grant number 13781:
..... $ 99,648
5. For small business procurement, grant number 12600:
..... $ 125,000
6. For shelter grants, grant number 14231:
..... $ 1,318,000

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, 2000, and ending June 30, 2001, are appropriated to the department of education for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law. The following amounts are appropriated to the department of education for the fiscal year beginning July 1, 2000, and ending June 30, 2001:
1. For school breakfast program, grant number 10553:
..... $ 9,000,000
2. For school lunch program, grant number 10555:
..... $ 50,293,658[5]
3. For special milk program for children, grant number 10556:
..... $ 190,000
4. For child care food program, grant number 10558:
..... $ 15,915,000

[5] See chapter 1232, §32 herein

5. For summer food service for children, grant number 10559:
..... $ 1,024,000
6. For administration expenses for child nutrition, grant number 10560:
..... $ 1,200,000
7. For public telecommunication facilities, grant number 11550:
..... $ 500,000
8. For vocational rehabilitation — state supplementary assistance, grant number 13625:
..... $ 464,249
9. For vocational rehabilitation — FICA, grant number 13802:
..... $ 12,765,675
10. For nutrition education and training, grant number 10564:
..... $ 150,000
11. For mine health and safety, grant number 17600:
..... $ 112,000
12. For veterans education, grant number 64111:
..... $ 220,746
13. For adult education, grant number 84002:
..... $ 3,255,045
14. For bilingual education, grant number 84194:
..... $ 100,000
15. For E.C.I.A. — chapter 1, grant number 84010:
..... $ 56,825,000
16. For migrant education, grant number 84011:
..... $ 474,712
17. For education for neglected — delinquent children, grant number 84013:
..... $ 256,000
18. For handicapped education, grant number 84025:
..... $ 110,755
19. For handicapped — state grants, grant number 84027:
..... $ 36,397,987
20. For technology literacy challenge, grant number 84318:
..... $ 2,925,114
21. For library services and technology, grant number 45310:
..... $ 1,501,385
22. For vocational education — state grants, grant number 84048:
..... $ 11,698,961
23. For rehabilitation services — basic support, grant number 84126:
..... $ 22,532,451
24. For rehabilitation training, grant number 84129:
..... $ 49,712
25. For E.E.S.A. Title II, grant number 84281:
..... $ 2,387,943
26. For emergency immigrant education, grant number 84162:
..... $ 626,765
27. For independent living project, grant number 84169:
..... $ 246,469
28. For education of handicapped — incentive, grant number 84173:
..... $ 3,764,800
29. For education of handicapped — infants and toddlers, grant number 84181:
..... $ 2,869,783[6]
30. For Byrd scholarship program, grant number 84185:
..... $ 432,000
31. For drug-free schools/communities, grant number 84186:
..... $ 2,959,527

[6] See chapter 1232, §32 herein

32. For supported employment, grant number 84187:
..... $ 295,548
33. For homeless youth and children, grant number 84196:
..... $ 192,552
34. For even start, grant number 84213:
..... $ 805,782
35. For E.C.I.A. capital expense, grant number 84216:
..... $ 180,000
36. For AIDS prevention project, grant number 93938:
..... $ 203,883
37. For headstart collaborative grant, grant number 93600:
..... $ 150,000
38. For infrastructure under the Iowa demonstration construction grant program and character education, grant number 84215:
..... $ 10,417,482
39. For teacher preparation education, grant number 84243:
..... $ 1,305,695
40. For goals 2001, grant number 84276:
..... $ 3,915,117
41. For learn and serve America, grant number 94004:
..... $ 385,433
42. For star schools grant, grant number 84203:
..... $ 1,985,002
43. E.S.E.A. Title VI, grant number 84298:
..... $ 3,742,431
44. For department of labor, grant number 17249:
..... $ 1,862,500
45. For handicapped English literacy, grant number 84223:
..... $ 875,528
46. For school reform, grant number 84332:
..... $ 1,055,479
47. For reading excellence, grant number 84338:
..... $ 3,300,000
48. For class size reduction, grant number 84340:
..... $ 9,449,330
49. For system change, grant number 84989:
..... $ 499,635
50. For refugee schools, grant number 93576:
..... $ 250,000

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, 2000, and ending June 30, 2001, are appropriated to the department of elder affairs for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law. The following amounts are appropriated to the department of elder affairs for the fiscal year beginning July 1, 2000, and ending June 30, 2001:

1. For nutrition program for elderly, grant number 10570:
..... $ 2,212,040
2. For senior community service employment program, grant number 17235:
..... $ 1,145,400
3. For preventive health, grant number 93043:
..... $ 182,139
4. For supportive services, grant number 93044:
..... $ 4,350,775

5. For nutrition, grant number 93045:
..... $ 6,146,119
6. For frail elderly, grant number 93046:
..... $ 110,291
7. For health care financing administration, grant number 93779:
..... $ 251,373
8. For elder abuse, grant number 93041:
..... $ 56,270
9. For ombudsman program, grant number 93042:
..... $ 62,261
10. For Title IV aging programs, grant number 93048:
..... $ 221,909

Sec. 30. ETHICS AND CAMPAIGN DISCLOSURE BOARD. Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 2000, and ending June 30, 2001, 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. DEPARTMENT OF GENERAL SERVICES. Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 2000, and ending June 30, 2001, are appropriated to the department of general services for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law.

Sec. 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, 2000, and ending June 30, 2001, 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 — DRUG ENFORCEMENT AND ABUSE PREVENTION COORDINATOR.[7] 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, 2000, and ending June 30, 2001, are appropriated to the office of the governor for the drug enforcement and abuse prevention coordinator for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law. The following amounts are appropriated to the office of the governor for the drug enforcement and abuse prevention coordinator for the fiscal year beginning July 1, 2000, and ending June 30, 2001:

1. For structured fines project, grant number 16574:
..... $ 10,000
2. For rural domestic violence and child victimization assistance, grant number 16589:
..... $ 90,000

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, 2000, and ending June 30, 2001, are appropriated to the department of human rights for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law. The following amounts are appropriated to the department of human rights for the fiscal year beginning July 1, 2000, and ending June 30, 2001:

1. For juvenile justice and delinquency prevention, grant number 16540:
..... $ 854,648

[7] See chapter 1232, §92 herein

2. For weatherization assistance, grant number 81042:
..... $ 2,905,255
3. For client assistance, grant number 84161:
..... $ 118,719
4. For Title V, delinquency prevention, grant number 16546:
..... $ 400,000
5. For juvenile accountability incentive block grant, grant number 16523:
..... $ 2,895,700

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, 2000, and ending June 30, 2001, are appropriated to the department of human services, for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law. The following amounts are appropriated to the department of human services for the fiscal year beginning July 1, 2000, and ending June 30, 2001:

1. For food stamps, grant number 10551:
..... $ 2,025,000
2. For administration expense for food stamps, grant number 10561:
..... $ 11,846,700
3. For commodity support food program, grant number 10565:
..... $ 309,557
4. For temporary emergency food assistance, grant number 10568:
..... $ 332,440
5. For Title XVIII Medicare inspections, grant number 13773:
..... $ 100,000
6. For foster grandparents program, grant number 72001:
..... $ 349,064
7. For mental health training, grant number 93244:
..... $ 706,365
8. For child support enforcement, grant number 93563:
..... $ 34,847,043
9. For refugee and entrant assistance, grant number 93566:
..... $ 5,786,342
10. For developmental disabilities basic support, grant number 93630:
..... $ 848,186
11. For children's justice, grant number 93643:
..... $ 116,474
12. For child welfare services, grant number 93645:
..... $ 3,222,881
13. For crisis nursery, grant number 93656:
..... $ 170,756
14. For foster care Title IV-E, grant number 93658:
..... $ 29,492,952
15. For adoption assistance, grant number 93659:
..... $ 19,666,132
16. For child abuse basic, grant number 93669:
..... $ 283,722
17. For child abuse challenge, grant number 93672:
..... $ 192,939
18. For Title IV-E independent living, grant number 93674:
..... $ 455,162
19. For sexually transmitted disease control program, grant number 93777:
..... $ 2,765,477

20. For medical assistance, grant number 93778:
..... $ 1,085,002,887
21. For adoption opportunities, grant number 93652:
..... $ 289,022
22. For empowerment, grant number 93585:
..... $ 2,895,762
23. For family preservation, grant number 93556:
..... $ 1,768,231
24. For welfare reform research evaluation, grant number 93595:
..... $ 156,237
25. For social services research and demonstration, grant number 93647:
..... $ 70,849
26. For welfare reform, grant number 93239:
..... $ 81,910
27. For children's health insurance program, grant number 93767:
..... $ 35,808,644

Sec. 36. INFORMATION TECHNOLOGY DEPARTMENT. Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 2000, and ending June 30, 2001, are appropriated to the information technology department, if the department is established by the Seventy-eighth General Assembly, 2000 Session, for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law.

Sec. 37. DEPARTMENT OF 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, 2000, and ending June 30, 2001, are appropriated to the department of inspections and appeals for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law. The following amounts are appropriated to the department of inspections and appeals for the fiscal year beginning July 1, 2000, and ending June 30, 2001:
1. For assistance for intrastate meat and poultry, grant number 10475:
..... $ 18,427
2. For food and drug research grants, grant number 13103:
..... $ 21,633
3. For Title XVIII Medicare inspections, grant number 13773:
..... $ 1,951,529
4. For state medicaid fraud control unit, grant number 13775:
..... $ 18,814
5. For state medicaid fraud control, grant number 93775:
..... $ 560,018

Sec. 38. 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, 2000, and ending June 30, 2001, are appropriated to the judicial branch for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law. The following amount is appropriated to the judicial branch for the fiscal year beginning July 1, 2000, and ending June 30, 2001:
For United States department of health and human services, grant number 13000:
..... $ 150,000[8]

Sec. 39. DEPARTMENT OF JUSTICE. Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 2000, and ending June 30, 2001, are appropriated to the department of justice for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the

[8] See chapter 1232, §33 herein

funds, unless otherwise provided by law. The following amounts are appropriated to the department of justice for the fiscal year beginning July 1, 2000, and ending June 30, 2001:

1. For United States department of justice, grant number 16000:
..... $ 28,988[9]

2. For United States department of health and human services, grant number 13000:
..... $ 624,127

Sec. 40. 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, 2000, and ending June 30, 2001, 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. 41. 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, 2000, and ending June 30, 2001, 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. 42. 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, 2000, and ending June 30, 2001, are appropriated to the department of natural resources for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law. The following amounts are appropriated to the department of natural resources for the fiscal year beginning July 1, 2000, and ending June 30, 2001:

1. For forestry incentive program, grant number 10064:
..... $ 416,000

2. For cooperative forestry assistance, grant number 10664:
..... $ 490,362

3. For fish restoration, grant number 15605:
..... $ 5,488,697

4. For wildlife restoration, grant number 15611:
..... $ 2,675,000

5. For acquisition, development, and planning, grant number 15916:
..... $ 1

6. For recreation boating safety financial assistance, grant number 20005:
..... $ 775,000

7. For consolidated environmental programs support, grant number 66600:
..... $ 10,594,420

8. For energy conservation, grant number 81041:
..... $ 1,745,183

9. For Title VI revolving loan fund, grant number 66458:
..... $ 2,529,823

10. For disaster assistance, grant number 83516:
..... $ 1

11. For United States geological survey, soil conservation service, mapping projects, grant number 15808:
..... $ 60,720

12. For rare and endangered species, grant number 15612:
..... $ 50,000

13. For highway construction, grant number 20205:
..... $ 254,000

14. For fish and wildlife watershed, grant number 10904:
..... $ 603,000

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[9] See chapter 1232, §34 herein

Sec. 43. 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, 2000, and ending June 30, 2001, 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. 44. DEPARTMENT OF PERSONNEL. Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 2000, and ending June 30, 2001, are appropriated to the department of personnel for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law.

Sec. 45. 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, 2000, and ending June 30, 2001, are appropriated to the department of public defense for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law. The following amounts are appropriated to the department of public defense for the fiscal year beginning July 1, 2000, and ending June 30, 2001:

1. For public assistance grants, grant number 83544:
..... $ 2,280,009
2. For superfund authorization, grant number 83011:
..... $ 87,000
3. For hazardous materials grants, grant number 83548:
..... $ 1,256,888
4. For state disaster preparedness grants, grant number 83505:
..... $ 50,000
5. For state and local assistance, grant number 83534:
..... $ 1,242,047
6. For disaster assistance, grant number 83516:
..... $ 2,833,612
7. For hazardous materials transport, grant number 20703:
..... $ 104,755
8. For operations and maintenance, grant number 12401:
..... $ 15,955,850
9. For mitigation assistance program, grant number 83535:
..... $ 56,570
10. For public-private partnership, grant number 83999:
..... $ 55,000

Sec. 46. 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, 2000, and ending June 30, 2001, 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. 47. IOWA DEPARTMENT OF PUBLIC HEALTH. Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 2000, and ending June 30, 2001, are appropriated to the Iowa department of public health for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law. The following amounts are appropriated to the Iowa department of public health for the fiscal year beginning July 1, 2000, and ending June 30, 2001:

1. For women, infants, and children, grant number 10557:
..... $ 34,883,310

2. For primary care services, grant number 13130:
..... $ 125,879
3. For health services — grants and contracts, grant number 13226:
..... $ 215,000
4. For radon control, grant number 66032:
..... $ 364,506
5. For toxic substance compliance monitoring, grant number 66701:
..... $ 405,712
6. For drug-free schools — communities, grant number 84186:
..... $ 795,901
7. For hazardous waste, grant number 66802:
..... $ 66,982
8. For regional delivery systems, grant number 93110:
..... $ 238,512
9. For TB control — elimination, grant number 93116:
..... $ 348,227
10. For physician education, grant number 93161:
..... $ 319,514
11. For childhood lead abatement, grant number 93197:
..... $ 764,557
12. For family planning projects, grant number 93217:
..... $ 661,793
13. For immunization program, grant number 93268:
..... $ 1,728,790
14. For needs assessment grant, grant number 93283:
..... $ 1,760,212
15. For rural health, grant number 93913:
..... $ 208,612
16. For HIV cares grants, grant number 93917:
..... $ 1,444,896
17. For preventive health services, grant number 93977:
..... $ 663,677
18. For AIDS prevention project, grant number 93940:
..... $ 1,357,378
19. For breast and cervical cancer, grant number 93919:
..... $ 1,777,055
20. For consumer protection safety, grant number 87001:
..... $ 1,000
21. For federal emergency medical services for children, grant number 93127:
..... $ 248,075
22. For refugee and entrant assistance, grant number 93576:
..... $ 51,996
23. For United States department of health and human services, food and drug administration, grant number 13101:
..... $ 577,091
24. For federal environmental protection agency lead certification program, grant number 66707:
..... $ 258,805
25. Loan repayment, grant number 93165:
..... $ 75,000
26. Primary care services, grant number 93130:
..... $ 18,800
27. Community scholarship, grant number 93931:
..... $ 38,000

28. For diabetes, grant number 93988:
..... $ 251,214
29. For abstinence education, grant number 93235:
..... $ 413,076
30. For AIDS prevention project, grant number 93944:
..... $ 163,227
31. For data information systems, grant number 93000:
..... $ 51,727
32. For traumatic brain injury, grant number 93234:
..... $ 249,661
33. For treatment outcome performance protocol, grant number 93238:
..... $ 330,188[10]

Sec. 48. 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, 2000, and ending June 30, 2001, are appropriated to the department of public safety, for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law. The following amounts are appropriated to the department of public safety for the fiscal year beginning July 1, 2000, and ending June 30, 2001:

1. For department of housing and urban development, grant number 14000:
..... $ 25,000
2. For department of justice, grant number 16000:
..... $ 6,684,071[11]
3. For marijuana control, grant number 16580:
..... $ 58,000
4. For state and community highway safety, grant number 20600:
..... $ 2,534,863[12]
5. For narcotics control, grant number 16502:
..... $ 750,000

Sec. 49. STATE BOARD OF REGENTS. Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 2000, and ending June 30, 2001, are appropriated to the state board of regents for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law. The following amounts are appropriated to the state board of regents for the fiscal year beginning July 1, 2000, and ending June 30, 2001:

1. For agricultural experiment, grant number 10203:
..... $ 3,849,235
2. For cooperative extension service, grant number 10500:
..... $ 8,150,000
3. For school breakfast program, grant number 10553:
..... $ 8,190
4. For school lunch program, grant number 10555:
..... $ 10,010[13]
5. For maternal and child health, grant number 13110:
..... $ 97,785
6. For cancer treatment research, grant number 13395:
..... $ 50,159
7. For general research, grant number 83500:
..... $ 241,011,534

[10] See chapter 1232, §35 herein
[11] See chapter 1232, §36 herein
[12] See chapter 1232, §36 herein
[13] See chapter 1232, §37 herein

8. For handicapped — state grants, grant number 84027:
..... $ 280,235
9. For rehabilitation services basic support, grant number 84126:
..... $ 56,700

Sec. 50. DEPARTMENT OF REVENUE AND FINANCE. Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 2000, and ending June 30, 2001, are appropriated to the department of revenue and finance for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law.

Sec. 51. 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, 2000, and ending June 30, 2001, 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. 52. 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, 2000, and ending June 30, 2001, 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. 53. 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, 2000, and ending June 30, 2001, 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. 54. 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, 2000, and ending June 30, 2001, 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. 55. 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, 2000, and ending June 30, 2001, are appropriated to the office of treasurer of state for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law. The following amount is appropriated to the treasurer of state for the fiscal year beginning July 1, 2000, and ending June 30, 2001:
For flood control, grant number 90000:
..... $ 350,000

Sec. 56. STATE DEPARTMENT OF TRANSPORTATION. Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 2000, and ending June 30, 2001, are appropriated to the state department of transportation for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law. The following amounts are appropriated to the state department of transportation for the fiscal year beginning July 1, 2000, and ending June 30, 2001:
1. For airport improvement program — federal aviation administration, grant number 20106:
..... $ 30,000

2. For highway research, plan and construction, grant number 20205:
..... $ 266,800,000
3. For motor carrier safety assistance, grant number 20217:
..... $ 50,000
4. For local rail service assistance, grant number 20308:
..... $ 400,000
5. For urban mass transportation, grant number 20507:
..... $ 7,000,000

Sec. 57. COMMISSION OF VETERANS AFFAIRS. Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 2000, and ending June 30, 2001, are appropriated to the commission of veterans affairs for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law.

Sec. 58. 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, 2000, and ending June 30, 2001, are appropriated to the department of workforce development for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law. The following amounts are appropriated to the department of workforce development for the fiscal year beginning July 1, 2000, and ending June 30, 2001:
1. For trade expansion Act, grant number 11309:
..... $ 1,310,000
2. For child support enforcement, grant number 13783:
..... $ 109,068
3. For employment statistics, grant number 17002:
..... $ 1,400,416
4. For research and statistics, grant number 17005:
..... $ 185,063
5. For labor certification, grant number 17202:
..... $ 108,885
6. For employment service, grant number 17207:
..... $ 7,274,490
7. For unemployment insurance grant to state, grant number 17225:
..... $ 13,730,000
8. For occupational safety and health, grant number 17500:
..... $ 2,060,864
9. For disabled veterans outreach, grant number 17801:
..... $ 956,101
10. For local veterans employment representation, grant number 17804:
..... $ 1,282,797
11. For unemployment insurance trust receipts, grant number 17998:
..... $ 184,010,000
12. For the federal Job Training Partnership Act, grant number 17250:
..... $ 40,447,660
13. For the federal department of labor, grant number 17000:
..... $ 1,000,000
14. For the federal young adult conservation corps, grant number 10663:
..... $ 10,000

Sec. 59. LIHEAP FUNDING — DISCONNECTION PROHIBITION. It is the intent of the general assembly that if the governor determines federal funds are insufficient to adequately provide for certification of eligibility for the low-income home energy assistance program

by the community action agencies during the federal fiscal year which commences October 1, 2000, the Iowa utilities board shall issue an order prohibiting disconnection of service from November 1 through April 1 by a regulated public utility furnishing gas or electricity to households whose income falls at or below one hundred fifty percent of the federal poverty level as established by the United States office of management and budget. The board shall promptly adopt rules in accordance with section 17A.4, subsection 2, and section 17A.5, subsection 2, paragraph "b", to implement this requirement. The energy assistance bureau of the department of human rights, in consultation with the community action agencies, shall certify to the utilities, households that are eligible for moratorium protection utilizing the agency's existing electronic database. Rules adopted under this section shall also be published as a notice of intended action as provided in section 17A.4.

Sec. 60. EFFECTIVE DATE. The following provisions of this Act, being deemed of immediate importance, take effect upon enactment:

1. Section 10, subsection 3, of this Act, appropriating federal community development block grant moneys for the federal fiscal year beginning October 1, 1999.

2. Section 14, subsection 7, relating to contracts for projects for assistance in transition from homelessness.

Approved April 21, 2000

CHAPTER 1221

TOBACCO SETTLEMENT FUND APPROPRIATIONS

H.F. 2555

AN ACT relating to and making appropriations from the tobacco settlement fund, providing an effective date, and providing for retroactive applicability.

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

Section 1. TOBACCO SETTLEMENT FUND — APPROPRIATIONS TO DEPARTMENTS. There is appropriated from the tobacco settlement fund created in section 12.65 to the following departments for the fiscal year beginning July 1, 2000, and ending June 30, 2001, 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. Beginning November 1, 2000, to increase the reimbursement rate for all noninstitutional medical assistance providers, excluding anesthesia and dental services, to the rate in effect on January 1, 2000, under the fee schedule established for Iowa under the federal Medicare program that incorporates the resource-based relative value scale methodology:

..... $ 6,000,000

b. To increase the reimbursement rate to 75 percent of the usual and customary rate for the fiscal year July 1, 2000, through June 30, 2001, for dental services under the medical assistance program:

..... $ 3,600,000

c. To provide a cost-of-living adjustment for the fiscal year July 1, 2000, through June 30, 2001, of 5 percent to rehabilitative treatment and support services providers under the medical assistance program:

..... $ 3,100,000

The cost-of-living adjustment for rehabilitative treatment and support services providers shall be applied to each individual provider's state negotiated rate.

d. To provide a cost-of-living adjustment for the fiscal year July 1, 2000, through June 30, 2001, of 5 percent to adoption, independent living, shelter care, and home studies services providers:

..... $ 500,000

The cost-of-living adjustment for licensed or approved shelter care providers shall be applied to each individual licensed or approved shelter care provider's state negotiated rate. On or before August 1, 2000, the department shall recalculate the statewide average cost of shelter care to include the total amount of the individual providers' cost-of-living adjustments. The cost-of-living adjustment percentage specified in this lettered paragraph shall be applied directly to the state's negotiated shelter care per diem reimbursement rate.

e. To increase the reimbursement rate for the fiscal year July 1, 2000, through June 30, 2001, for hospitals under the medical assistance program by 3 percent over the reimbursement rate in effect on June 30, 2000:

..... $ 2,300,000

f. To increase the reimbursement rate for the fiscal year July 1, 2000, through June 30, 2001, for home health care services under the medical assistance program to the rate provided for such services under the federal Medicare program:

..... $ 2,400,000

g. To increase the reimbursement rate for the fiscal year July 1, 2000, through June 30, 2001, for critical access hospitals under the medical assistance program to the rate provided for such hospitals under the federal Medicare program:

..... $ 250,000

h. To provide for expansion of home health care services and habilitative day care under the medical assistance program for children with special needs:

..... $ 4,400,000

i. To provide for expansion of respite care services provided through home and community-based waivers under the medical assistance program:

..... $ 1,200,000

j. To increase the reimbursement rate for the fiscal year July 1, 2000, through June 30, 2001, to service providers under the purview of the department of human services, with the exception of family support subsidy providers, by up to 1 percent over the rates in effect on June 30, 2000:

..... $ 550,000

Of the funds appropriated to the department of human services under this subsection, $182,381 shall be used to meet the maintenance of effort requirements under the state supplementary assistance program.

The department of human services shall conduct a review of reimbursement rates and the reimbursement methodology for providers of dental services, including the feasibility of changing from a system that is based upon a percentage of the usual, customary, and reasonable rates to one that is percentile-based, and shall submit a report of its findings to the governor and the general assembly on or before December 1, 2000.

The department of human services may adopt emergency rules to implement this subsection.

2. To the department of human services to supplement the children's health insurance program appropriation:

..... $ 200,000

3. To the department of human services for performance of the evaluation required under this subsection:

..... $ 35,000

The department of human services shall seek a waiver from the health care financing administration of the United States department of health and human services to implement a pilot project in fiscal year 2000-2001 to study the effects of providing continuous eligibility for children under the medical assistance program. If the waiver is approved, the pilot

project shall be implemented in one rural and one urban county, and the department shall enter into a contract with an entity outside of the department to perform an evaluation of the pilot project. The evaluating entity shall coordinate its efforts with efforts of the United States department of health and human services relating to evaluation of continuous eligibility. The evaluating entity shall submit a report to the general assembly on or before December 15, 2000, regarding the findings of the pilot project including, but not limited to, any increased costs which may be incurred through continuous eligibility. The report shall also include recommendations for discontinuation or expansion of the pilot project.

4. To the Iowa department of public health:

a. For additional substance abuse treatment under the substance abuse treatment program:

..... $ 11,900,000

(1) The department shall use funds appropriated in this paragraph to enhance the quality of and to expand the capacity to provide 24-hour substance abuse treatment programs.

(2) The department shall use funds appropriated in this paragraph 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 to share research-based best practices for treatment with substance abuse treatment facilities.

(4) The department shall use funds appropriated in this paragraph to develop a results-based funding approach for substance abuse treatment services.

(5) The department shall use funds appropriated in this paragraph to develop a program to encourage individuals who are successfully managing their substance abuse problems to serve as role models.

b. For development of a healthy Iowans 2010 plan within the Iowa department of public health and for not more than the following full-time equivalent positions:

..... $ 2,800,000

..... FTEs 4.00

(1) Of the funds appropriated in this paragraph, not more than $1,500,000 shall be used for core public health functions, including home health care and public health nursing services, contracted through a formula by local boards of health, to enhance disease and injury prevention services.

(2) Of the funds appropriated in this paragraph, not more than $400,000 shall be used for the implementation and support of a coordinated system of delivery of trauma and emergency medical services.

(3) Of the funds appropriated in this paragraph, not more than $437,000 shall be used for the establishment of a state poison control center.

(4) Of the funds appropriated in this paragraph, not more than $300,000 shall be used for the development of scientific and medical expertise in environmental epidemiology.

(5) Of the funds appropriated in this paragraph, not more than $163,000 shall be used to implement prevention strategies of healthy Iowans 2010 to address the leading causes of death in Iowa.

5. To the department of corrections:

..... $ 610,000

a. Of the funds appropriated in this subsection, $127,217 is allocated to the second judicial district department of correctional services to replace expired federal funding for day programming.

b. Of the funds appropriated in this subsection, $35,359 is allocated to the third judicial district department of correctional services to replace expired federal funding for the drug court program.

c. Of the funds appropriated in this subsection, $191,731 is allocated to the fourth judicial district department of correctional services for a drug court program.

d. Of the funds appropriated in this subsection, $255,693 is allocated to the fifth judicial district department of correctional services to replace expired funding for the drug court program.

Sec. 2. TOBACCO SETTLEMENT FUND — APPROPRIATION — IOWA DEPARTMENT OF PUBLIC HEALTH. There is appropriated from the tobacco settlement fund created in section 12.65 to the Iowa department of public health for the fiscal period beginning April 1, 2000, and ending June 30, 2001, the following amounts, or so much thereof as is necessary, for the purpose designated, and for not more than the following full-time equivalent positions:

For a tobacco use prevention and control program, including efforts at the state and local levels, as provided by the 2000 Session of the Seventy-eighth General Assembly:

..... $ 9,345,394

..... FTEs 7.00

1. Of the funds appropriated in this section, $1,782,420 shall be used to expand activities that ensure compliance with section 453A.2 and other laws and ordinances prohibiting the sale of tobacco products to persons under 18 years of age. Funds allocated in this subsection and used for the purposes of this subsection shall supplement, not supplant, other funds received or used to enforce these laws and ordinances.

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 with section 218 of H.R. 3424 as enacted in Division B, Section 1000(a)(4) of H.R. 3194, and as incorporated by cross-reference in the conference report, H. Rept. 106-479 to H.R. 3194, as enacted in Pub. L. No. 106-113.

2. Of the funds appropriated in this section, not more than $300,000 shall be used to conduct a statewide youth summit on tobacco use prevention and control. The summit shall be held no later than August 15, 2000.

3. Of the full-time equivalent positions authorized under this section, two full-time equivalent positions shall be utilized to provide for enforcement of tobacco laws and regulations under contracts entered into between the Iowa department of public health and the alcoholic beverages division of the department of commerce.

4. Of the funds appropriated in this section, not more than $525,759 shall be expended on administration and management of the program.

Sec. 3. PURCHASE OF SERVICE CONTRACT PROVIDERS — REIMBURSEMENT INCREASE. There is appropriated from the tobacco settlement fund created in section 12.65 to the property tax relief fund created in section 426B.1 for the fiscal year beginning July 1, 2000, and ending June 30, 2001, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For assistance to certain counties with limited county mental health, mental retardation, and developmental disabilities services fund balances to pay reimbursement increases in accordance with this section:

..... $ 2,000,000

1. For the purposes of this section unless the context otherwise requires:

a. "Adjusted actual cost" means a POS provider's cost as computed using the financial and statistical report for the provider's fiscal year which ended during the state fiscal year beginning July 1, 1998, as adjusted by multiplying those actual costs by 103.4 percent or the percentage adopted by the risk pool board in accordance with subsection 3, paragraph "c".

b. "Host county" means the county in which the primary offices of a POS provider are located. However, if a POS provider operates a separate program in more than one county, "host county" means the county in which the separate program is operated.

c. "Purchase of service provider" or "POS provider" means a provider of sheltered work, work activity, supported employment, job placement, enclave services, adult day care, transportation, supported community living services, or adult residential services paid by a county from the county's services fund created in section 331.424A under a state purchase of service or county contract.

d. "Risk pool board" means the same as used in section 426B.5, subsection 3.

e. "Services fund" means the same as defined in section 331.424A.

2. a. For the fiscal year beginning July 1, 2000, the counties receiving state payments from the property tax relief fund shall provide a reimbursement rate increase for the fiscal year to eligible POS providers. The purpose of the reimbursement rate increase is to assist POS providers that have increased the compensation of their service staff. The reimbursement rate increase shall apply to POS services provided during the entire fiscal year beginning July 1, 2000.

b. In order to be eligible, a POS provider's adjusted actual cost of providing a service must be in excess of the reimbursement rate paid to the provider by the county as of June 30, 2000, and the excess cost must be attributable, at least in part, to service staff compensation. The documentation used in determining whether actual costs have increased for a POS provider shall be the applicable amounts submitted to the host county in the provider's annual financial and statistical reports, completed in accordance with department of human services' rules for purchase of services. The determination shall be made by comparing the applicable amounts in the report for the POS provider's fiscal year which ended during state fiscal year 1998-1999, with the applicable amounts in the report for the POS provider's fiscal year which ended during state fiscal year 1999-2000.

c. The host county shall increase the POS provider's reimbursement rate to the POS provider's adjusted actual cost, subject to a maximum of 5 percent over the reimbursement rates paid by the host county to that POS provider as of June 30, 2000. The reimbursement rate increase approved by the host county shall be accepted by all other counties that have an arrangement with the POS provider for provision of the program or service.[1]

3. a. If a county projects that payment of the reimbursement rate increase required pursuant to this section will cause the county to expend from the services fund during the fiscal year beginning July 1, 2000, an amount in excess of the sum of 100 percent of the county's budgeted expenses for that fiscal year and any amount of the county's previous fiscal year ending services fund balance in excess of 25 percent of the county's gross expenditures from the services fund in the previous fiscal year, the county may apply for assistance from the moneys appropriated in this section. The board may accept or reject an application for assistance in whole or in part. The decision of the board is final.

b. The funding appropriated in this section shall be administered separately from other funding administered by the risk pool board pursuant to section 426B.5, subsection 3. On or before September 1, 2000, the risk pool board shall adopt rules, and implement forms, deadlines, application procedures, and other provisions necessary for distributing assistance moneys to such counties. The risk pool board may adopt the rules on an emergency basis under section 17A.4, subsection 2, and section 17A.5, subsection 2, paragraph "b", to implement the procedures and requirements 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 paragraph shall also be published as a notice of intended action as provided in section 17A.4.

c. If the funds appropriated in this section are insufficient to pay the total amount of assistance to all counties that are determined by the risk pool board to be eligible for assistance under this subsection, the total amount of assistance shall be prorated among the eligible counties by the risk pool board. However, if the risk pool board determines that prorating the amount of assistance would be required, in addition to or in lieu of prorating the amount of assistance, the risk pool board may adopt a different percentage for the definition of "adjusted actual cost" used in this section. If a different percentage is adopted, the percentage shall be applicable to reimbursement rates payable throughout the fiscal year. A county may delay payment of the reimbursement rate increase required by this section until the risk pool board has completed action as to adopting or not adopting a different percentage for the definition of "adjusted actual cost". Moneys appropriated in this section that remain unencumbered or unobligated at the close of the fiscal year shall revert to the tobacco settlement fund.

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[1] See chapter 1232, §4 herein

d. If a county receiving assistance in accordance with this subsection does not levy 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 beginning July 1, 2000, the county shall repay the assistance provided to the county in accordance with this subsection in the succeeding fiscal year. The repayment amount shall be limited to the amount by which the actual amount levied was less than the maximum amount allowed. Repayments shall be credited to the tobacco settlement fund.

4. The department of human services, in consultation with the risk pool board, shall develop and submit a recommendation on or before December 1, 2000, to the governor and the general assembly addressing provisions for counties receiving assistance under this section to continue receiving that assistance in subsequent fiscal years.

Sec. 4. SAVINGS ACCOUNT FOR HEALTHY IOWANS. There is appropriated from the tobacco settlement fund created in section 12.65 to the savings account for healthy Iowans established within the tobacco settlement fund, for the fiscal year beginning July 1, 2000, and ending June 30, 2001, the following amount:

..... $ 3,800,000

Sec. 5. REVERSION. Any moneys appropriated under this Act which are unexpended or unencumbered at the end of the fiscal period ending June 30, 2001, shall revert to the tobacco settlement fund.

Sec. 6. Section 249A.3, subsection 1, Code Supplement 1999, is amended by adding the following new paragraph after paragraph k:

NEW PARAGRAPH. kk. Is an infant whose income is not more than two hundred percent of the federal poverty level, as defined by the most recently revised income guidelines published by the United States department of health and human services.

Sec. 7. NEW SECTION. 249A.20 NONINSTITUTIONAL HEALTH PROVIDERS — REIMBURSEMENT.

Beginning November 1, 2000, the department shall use the federal Medicare resource-based relative value scale methodology to reimburse all applicable noninstitutional health providers, excluding anesthesia and dental services, that on June 30, 2000, are reimbursed on a fee-for-service basis for provision of services under the medical assistance program. The department shall apply the federal Medicare resource-based relative value scale methodology to such health providers in the same manner as the methodology is applied under the federal Medicare program and shall not utilize the resource-based relative value scale methodology in a manner that discriminates between such health providers. The reimbursement schedule shall be adjusted, annually, on July 1, and shall provide for reimbursement that is not less than the reimbursement provided under the fee schedule established for Iowa under the federal Medicare program in effect on January 1 of that calendar year.

Sec. 8. Section 514I.8, subsection 1, Code 1999, is amended to read as follows:

1. Effective July 1, 1998, and notwithstanding any medical assistance program eligibility criteria to the contrary, medical assistance shall be provided to, or on behalf of, an eligible child under the age of nineteen whose family income does not exceed one hundred thirty-three 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. Additionally, effective July 1, 2000, and notwithstanding any medical assistance program eligibility criteria to the contrary, medical assistance shall be provided to, or on behalf of, an eligible infant whose family income does not exceed two hundred percent of the federal poverty level, as defined by the most recently revised poverty income guidelines published by the United States department of health and human services.

Sec. 9. Section 514I.8, subsection 2, paragraph c, Code 1999, is amended to read as follows:

c. Is a member of a family whose ~~adjusted gross~~ income does not exceed ~~one~~ two hundred ~~eighty-five~~ percent of the federal poverty level, as defined in 42 U.S.C. § 9902(2), including any revision required by such section.

Sec. 10. Section 514I.10, Code 1999, is amended to read as follows:

514I.10 COST SHARING.

1. Cost sharing for eligible children whose family ~~adjusted gross~~ income is at or below one hundred fifty percent of the federal poverty level shall not exceed the standards permitted under 42 U.S.C. § 1396(o)(a)(3) or § 1396(o)(b)(1).

2. Cost sharing for eligible children whose family ~~adjusted gross~~ income is between one hundred fifty percent and ~~one~~ two hundred ~~eighty-five~~ percent of the federal poverty level shall include a premium or copayment amount which is at least a minimum amount but which does not exceed five percent of the annual family ~~adjusted gross~~ income. The amount of the premium or the copayment amount shall be based on ~~a sliding fee scale established by rule which is based on~~ family ~~adjusted gross~~ income and ~~the~~ size ~~of the family~~.

Sec. 11. EMERGENCY RULES. If specifically authorized by a provision of this Act, the department of human services 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, unless the effective date is delayed by the administrative rules review committee, notwithstanding section 17A.4, subsection 5, and section 17A.8, subsection 9, or a later effective date is 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 no later than June 14, 2000.

Sec. 12. EFFECTIVE DATE — RETROACTIVE APPLICABILITY. Section 2 of this Act, relating to appropriation of funding for the appropriation of funds to the Iowa department of public health for a tobacco use prevention and control program, being deemed of immediate importance, takes effect upon enactment and is retroactively applicable to April 1, 2000. Section 11 of this Act, being deemed of immediate importance, takes effect upon enactment.

Approved May 5, 2000

CHAPTER 1222

APPROPRIATIONS — HEALTH AND HUMAN RIGHTS

S.F. 2429

AN ACT relating to and making appropriations to the department for the blind, the Iowa state civil rights commission, the department of elder affairs, the Iowa department of public health, the department of human rights, the governor's office of drug control policy, and the commission of veterans affairs, and providing effective dates and retroactive applicability provisions.

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

Section 1. DEPARTMENT FOR THE BLIND. There is appropriated from the general fund of the state to the department for the blind for the fiscal year beginning July 1, 2000,

and ending June 30, 2001, 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:

..... $ 1,784,950
..... FTEs 106.50

Sec. 2. CIVIL RIGHTS COMMISSION. There is appropriated from the general fund of the state to the Iowa state civil rights commission for the fiscal year beginning July 1, 2000, and ending June 30, 2001, 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:

..... $ 1,222,910
..... FTEs 38.50

If the anticipated amount of federal funding from the federal equal employment opportunity commission and the federal department of housing and urban development exceeds $736,000 during the fiscal year beginning July 1, 2000, the Iowa state civil rights commission may exceed the staffing level authorized in this section to hire additional staff to process or to support the processing of employment and housing complaints during that fiscal year.

Sec. 3. 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, 2000, and ending June 30, 2001, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

1. For aging programs and for salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 5,070,492
..... FTEs 30.00

a. Of the funds appropriated in this subsection, $4,371,598 shall be received and disbursed by the director of elder affairs for aging programs and services. These funds shall not be used by the department for administrative purposes, and not more than $151,654 shall be used for area agencies on aging administrative purposes, and shall be used for citizens of Iowa over 60 years of age for case management for the frail elderly, mental health outreach, Alzheimer's support, retired senior volunteer program, resident advocate committee coordination, employment, adult day care, respite care, chore services, telephone reassurance, information and assistance, and home repair services, including the winterizing of homes, and for the construction of entrance ramps which make residences accessible to the physically handicapped.

b. Funds appropriated in this subsection may be used to supplement federal funds under federal regulations. To receive funds appropriated in this subsection, 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 subsection may be used for elderly services not specifically enumerated in this subsection only if approved by an area agency on aging for provision of the service within the area.

c. It is the intent of the general assembly that the Iowa chapters of the Alzheimer's association and the case management program for the frail elderly shall collaborate and cooperate fully to assist families in maintaining family members with Alzheimer's disease in the community for the longest period of time possible.

d. The department shall maintain policies and procedures regarding Alzheimer's support and the retired senior volunteer program.

2. The department may grant an exception for a limited period of time, determined by the department to be reasonable, to allow for compliance by persons regulated by the department or applicants for assisted living certification with any part of chapter 104A relative to

buildings in existence on July 1, 1998. The determination of the period of time allowed for compliance shall be commensurate with the anticipated magnitude of expenditure, disruption of services, and the degree of hazard presented. The department shall also be authorized to modify the accessibility requirements otherwise applicable to such applicants for buildings in existence on July 1, 1998, if the department determines that compliance with the requirements would be unreasonable, but only if it is determined that noncompliance with the requirements would not present an unreasonable degree of danger.

Sec. 4. GOVERNOR'S OFFICE OF DRUG CONTROL POLICY. 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, 2000, and ending June 30, 2001, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 506,659
..... FTEs 13.00

2. For statewide coordination of the drug abuse resistance education (D.A.R.E.) program:

..... $ 80,000

Sec. 5. DEPARTMENT OF PUBLIC HEALTH. There is appropriated from the general fund of the state to the Iowa department of public health for the fiscal year beginning July 1, 2000, and ending June 30, 2001, 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:

..... $ 2,360,907
..... FTEs 21.65

a. The department shall continue to coordinate with substance abuse treatment and prevention providers regardless of funding source to assure the delivery of substance abuse treatment and prevention programs.

b. The commission on substance abuse, in conjunction with the department, shall continue to coordinate the delivery of substance abuse services involving prevention, social and medical detoxification, and other treatment by medical and nonmedical providers to uninsured and court-ordered substance abuse patients in all counties of the state.

2. ADULT WELLNESS

For maintaining or improving the health status of adults, with target populations between the ages of 18 through 60, and for not more than the following full-time equivalent positions:

..... $ 643,855
..... FTEs 19.27

3. CHILD AND ADOLESCENT WELLNESS

For promoting the optimum health status for children and adolescents from birth through 21 years of age, and for not more than the following full-time equivalent positions:

..... $ 1,424,456
..... FTEs 45.61

a. Of the funds appropriated in this subsection, $61,693 shall be allocated to the state university of Iowa hospitals and clinics under the control of the state board of regents for the statewide perinatal program.

b. Of the funds appropriated in this subsection, $201,187 shall be allocated for the physician care for children program.

The program's physician services shall be subject to managed care and selective contracting provisions and shall be used to provide for the medical treatment of children and shall

include coverage of diagnostic procedures, prescription drugs, and physician-ordered treatments necessary to treat an acute condition. Services provided under this lettered paragraph shall be reimbursed according to medical assistance reimbursement rates in effect as of July 1, 1998.

c. Of the funds appropriated in this subsection, not more than $165,000 shall be used to continue the existing infant mortality and morbidity prevention pilot projects in Polk, Scott, and Woodbury counties with no more than 15 percent being used for administrative expenses.

d. Of the funds appropriated in this subsection, not more than $25,000 shall be used to continue supporting multidisciplinary research into the cause of individual infant deaths in the state and shall be used solely for research purposes.

4. CHRONIC CONDITIONS

For serving individuals identified as having chronic conditions or special health care needs, and for not more than the following full-time equivalent positions:

..... $ 1,841,486
..... FTEs 6.75

a. Of the funds appropriated in this subsection, $738,185 shall be used for the chronic renal disease program. The types of assistance available to eligible recipients under the program may include insurance premiums, travel reimbursement, and prescription and nonprescription drugs. The program expenditures shall not exceed this allocation. If projected expenditures would exceed the amount allocated in this paragraph, the department shall establish by administrative rule a mechanism to reduce financial assistance under the chronic renal disease program in order to keep expenditures within the amount allocated.

b. Of the funds appropriated in this subsection, at least $587,865 shall be allocated by the department for the birth defects and genetics counseling program and of these funds, $279,402 is allocated for regional genetic counseling services contracted from the state university of Iowa hospitals and clinics under the control of the state board of regents. The birth defects and genetic counseling service shall apply a sliding fee scale to determine the amount a person receiving the services is required to pay for the services. These fees shall be considered repayment receipts and used for the program.

c. Of the funds appropriated in this subsection, the following amounts shall be allocated to the state university of Iowa hospitals and clinics under the control of the state board of regents for the following programs under the Iowa specialized child health care services:

(1) Mobile and regional child health specialty clinics:

..... $ 392,931

Of the funds allocated in this subparagraph, $97,937 shall be used for a specialized medical home care program providing care planning and coordination of community support services for children who require technical medical care in the home.

(2) Muscular dystrophy and related genetic disease programs:

..... $ 115,613

5. COMMUNITY CAPACITY

For strengthening the health care delivery system at the local level, and for not more than the following full-time equivalent positions:

..... $ 1,637,872
..... FTEs 24.15

a. Of the funds appropriated in this subsection, $350,000 shall be allocated to and used by local boards of health to ensure that core public health functions are maintained and to support essential services in their communities.

b. Of the funds appropriated in this subsection, $165,391 shall be allocated for the office of rural health to provide technical assistance to rural areas in the area of health care delivery.

c. Of the funds appropriated in this subsection, $235,000 shall be allocated for primary care provider recruitment and retention endeavors.

6. ELDERLY WELLNESS

For optimizing the health of persons over 55 years of age:

..... $ 10,932,737

..... FTEs 0.40

7. ENVIRONMENTAL HAZARDS

For reducing the public's exposure to hazards in the environment, primarily chemical hazards, and for not more than the following full-time equivalent positions:

..... $ 165,721

..... FTEs 5.00

Of the funds appropriated in this subsection, $39,547 shall be used for the lead abatement program.

8. INFECTIOUS DISEASES

For reducing the incidence and prevalence of communicable diseases, and for not more than the following full-time equivalent positions:

..... $ 1,346,770

..... FTEs 34.50

9. INJURIES

For providing support and protection to victims of abuse or injury, or programs that are designed to prevent abuse or injury, and for not more than the following full-time equivalent positions:

..... $ 1,869,662

..... FTEs 10.25

10. PUBLIC PROTECTION

For protecting the health and safety of the public through establishing standards and enforcing regulations, and for not more than the following full-time equivalent positions:

..... $ 7,068,352

..... FTEs 133.27

a. Of the funds appropriated and full-time equivalent positions authorized in this subsection, not more than $362,579 and 5.00 FTEs shall be used for salaries, support, maintenance, and miscellaneous purposes for operating the state board of dental examiners.

b. Of the funds appropriated and full-time equivalent positions authorized in this subsection, not more than $1,557,201 and 24.00 FTEs shall be used for salaries, support, maintenance, and miscellaneous purposes for operating the state board of medical examiners.

c. Of the funds appropriated and full-time equivalent positions authorized in this subsection, not more than $1,104,408 and 18.00 FTEs shall be used for salaries, support, maintenance, and miscellaneous purposes for operating the state board of nursing examiners.

d. Of the funds appropriated and full-time equivalent positions authorized in this subsection, not more than $763,167 and 11.00 FTEs shall be used for salaries, support, maintenance, and miscellaneous purposes for operating the state board of pharmacy examiners.

e. Of the funds appropriated and full-time equivalent positions authorized in this subsection, not more than $1,119,407 and 16.00 FTEs shall be used for salaries, support, maintenance, and miscellaneous purposes for the operation of the bureau of professional licensure.

The department may expend funds in addition to amounts allocated pursuant to this lettered paragraph, if those additional expenditures are directly the result of a scope of practice review committee or unanticipated litigation costs arising from the discharge of the board's regulatory duties. Before the department expends or encumbers funds for a scope of practice review committee or an amount in excess of the funds budgeted for a board, the director of the department of management shall approve the expenditure or encumbrance. The amounts necessary to fund the unanticipated litigation in the fiscal year beginning July 1, 2000, shall not exceed 5 percent of the average annual fees generated by the boards for the previous two fiscal years.

f. For the fiscal year beginning July 1, 2000, the department shall retain fees collected from the certification of lead inspectors and lead abaters pursuant to section 135.105A to

support the certification program; and shall retain fees collected from the licensing, registration, authorization, accreditation, and inspection of x-ray machines used for mammographically guided breast biopsy, screening, and diagnostic mammography, pursuant to section 136C.10 to support the administration of the chapter. For the fiscal year beginning July 1, 2000, the department shall also retain any new or increased fees implemented by the department pursuant to legislation enacted by the general assembly in 2000 for activities not otherwise funded by amounts appropriated in this section. Fees retained by the department pursuant to this lettered paragraph are appropriated to the department for the purposes specified in this lettered paragraph.

g. The department may retain and expend not more than $263,458 for lease and maintenance expenses for the relocation of licensure boards from the executive hills state office building from fees collected pursuant to section 147.80 by the board of dental examiners, the board of pharmacy examiners, the board of medical examiners, and the board of nursing examiners in the fiscal year beginning July 1, 2000, and ending June 30, 2001. Fees retained by the department pursuant to this lettered paragraph are appropriated to the department for the purposes described in this lettered paragraph.

h. For the fiscal year beginning July 1, 2000, and ending June 30, 2001, the board of dental examiners may retain and expend not more than $133,282 for the costs of 2.00 additional FTEs from revenues generated from the registration of dental assistants pursuant to 2000 Iowa Acts, House File 686,[1] as enacted by the Seventy-eighth General Assembly, for the purposes set forth in House File 686. For the fiscal year beginning July 1, 2001, and ending June 30, 2002, the board of dental examiners shall include in their budget request an amount of funding determined necessary to support the ongoing registration of dental assistants. Fees retained by the board pursuant to this lettered paragraph are appropriated to the Iowa department of public health to be used for the purposes specified in this lettered paragraph.

i. The department may retain and expend not more than $100,000 for reduction of the number of days necessary to process medical license requests and for reduction of the number of days needed for consideration of malpractice cases from fees collected pursuant to section 147.80 by the board of medical examiners in the fiscal year beginning July 1, 1999, and ending June 30, 2000. Fees retained by the department pursuant to this lettered paragraph are appropriated to the department for the purposes described in this lettered paragraph.

j. If a person in the course of responding to an emergency renders aid to an injured person and becomes exposed to bodily fluids of the injured person, that emergency responder shall be entitled to hepatitis testing and immunization in accordance with the latest available medical technology to determine if infection with hepatitis has occurred. The person shall be entitled to reimbursement from the EMS funds available under this subsection only if the reimbursement is not available through any employer or third-party payor.

k. The state board of medical examiners, the state board of pharmacy examiners, the state board of dental examiners, and the state board of nursing examiners shall prepare estimates of projected receipts to be generated by the licensing, certification, and examination fees of each board as well as a projection of the fairly apportioned administrative costs and rental expenses attributable to each board. Each board shall annually review and adjust its schedule of fees so that, as nearly as possible, projected receipts equal projected costs.

l. The state board of medical examiners, the state board of pharmacy examiners, the state board of dental examiners, and the state board of nursing examiners shall retain their individual executive officers, but are strongly encouraged to share administrative, clerical, and investigative staffs to the greatest extent possible.

11. RESOURCE MANAGEMENT

For establishing and sustaining the overall ability of the department to deliver services to the public, and for not more than the following full-time equivalent positions:

.....	$	1,368,335
.....	FTEs	52.15

[1] Chapter 1002 herein

12. The state university of Iowa hospitals and clinics under the control of the state board of regents shall not receive indirect costs from the funds appropriated in this section.

13. A local health care provider or nonprofit health care organization seeking grant moneys administered by the Iowa department of public health shall provide documentation that the provider or organization has coordinated its services with other local entities providing similar services.

14. a. The department shall apply for available federal funds for sexual abstinence education programs in accordance with the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, § 912.

b. It is the intent of the general assembly to comply with the United States Congress' intent to provide education that promotes abstinence from sexual activity outside of marriage and reduces pregnancies, by focusing efforts on those persons most likely to bear children out of wedlock.

c. Any sexual abstinence education program awarded moneys under the grant program shall meet the definition of abstinence education in the federal law. Grantees shall be evaluated based upon the extent to which the abstinence program successfully communicates the goals set forth in the federal law.

Sec. 6. DEPARTMENT OF HUMAN RIGHTS. There is appropriated from the general fund of the state to the department of human rights for the fiscal year beginning July 1, 2000, and ending June 30, 2001, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. CENTRAL ADMINISTRATION DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 331,534
..... FTEs 7.60

2. DEAF SERVICES DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 338,634
..... FTEs 7.00

The fees collected by the division for provision of interpretation services by the division to obligated agencies shall be disbursed pursuant to the provisions of section 8.32, and shall be dedicated and used by the division for continued and expanded interpretation services.

3. PERSONS WITH DISABILITIES DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 202,869
..... FTEs 3.50

4. LATINO AFFAIRS DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 172,272
..... FTEs 3.00

Of the funds appropriated in this subsection, $10,000 shall be used to study the need for a certified Spanish interpreter within the Latino affairs division.

5. STATUS OF WOMEN DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 426,464
..... FTEs 3.00

a. Of the funds appropriated in this subsection, at least $125,775 shall be spent for the Iowans in transition program.

b. Of the funds appropriated in this subsection, at least $42,570 shall be spent for domestic violence and sexual assault-related grants.

6. STATUS OF AFRICAN-AMERICANS DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 131,175
..... FTEs 2.00

7. CRIMINAL AND JUVENILE JUSTICE PLANNING DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 412,336
..... FTEs 8.20

a. 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.

b. Of the funds appropriated in this subsection, at least $36,000 shall be spent for expenses relating to the administration of federal funds for juvenile assistance. It is the intent of the general assembly that the department of human rights employ sufficient staff to meet the federal funding match requirements established by the federal office for juvenile justice and delinquency prevention. The governor's advisory council on juvenile justice shall determine the staffing level necessary to carry out federal and state mandates for juvenile justice.

8. COMMUNITY GRANT FUND

For the community grant fund established in section 232.190, to be used for the purposes of the community grant fund and for not more than the following full-time equivalent positions:

..... $ 1,600,494
..... FTEs 1.44

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. 7. COMMISSION OF VETERANS AFFAIRS. There is appropriated from the general fund of the state to the commission of veterans affairs for the fiscal year beginning July 1, 2000, and ending June 30, 2001, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. COMMISSION OF VETERANS AFFAIRS ADMINISTRATION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 294,669
..... FTEs 5.00

The commission of veterans affairs may use the gifts accepted by the chairperson of the commission of veterans affairs, or designee, and other resources available to the commission for use at its Camp Dodge office. The commission shall report annually to the governor and the general assembly on monetary gifts received by the commission for the Camp Dodge office.

2. WAR ORPHANS

For the war orphans educational aid fund established pursuant to chapter 35:

..... $ 6,000

3. IOWA VETERANS HOME

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 45,358,598
..... FTEs 960.94

a. The Iowa veterans home may use the gifts accepted by the chairperson of the commission of veterans affairs and other resources available to the commission for use at the Iowa veterans home.

b. If medical assistance revenues are expanded at the Iowa veterans home, and this expansion results in medical assistance reimbursements which exceed the amount budgeted for that purpose in the fiscal year beginning July 1, 2000, and ending June 30, 2001, the Iowa veterans home may expend the excess amounts to exceed the number of full-time equivalent positions authorized for the purpose of meeting related certification requirements or to provide additional beds. The expenditure of additional funds received, as outlined in this paragraph, is subject to the approval by the department of management. The amount approved by the department of management for expenditure shall be considered repayment receipts.

c. Any Iowa veterans home successor contractor shall not consider employees of a state institution or facility to be new employees for purposes of employee wages, health insurance, or retirement benefits.

d. The chairpersons and ranking members of the joint appropriations subcommittee on health and human rights shall be notified by January 15 of any calendar year during which a request for proposals is anticipated to be issued regarding any Iowa veterans home contract involving employment, for purposes of providing legislative review and oversight.

e. Of the full-time equivalent positions authorized in this subsection, filling 69.00 full-time equivalent positions shall be contingent upon the termination of the existing Iowa veterans home contract for housekeeping services and the hiring of state employees to perform housekeeping services at the Iowa veterans home.

f. The Iowa veterans home may retain reimbursements for medication costs obtained from the federal department of veterans affairs for the fiscal year beginning July 1, 2000, and ending June 30, 2001, in an amount sufficient for the payment of new and increased pharmaceutical costs and lease payments on a unit dose machine. Moneys retained pursuant to this paragraph are appropriated to the Iowa veterans home to be used for the purposes of this paragraph.

Sec. 8. GAMBLING TREATMENT FUND — APPROPRIATION.

1. There is appropriated from funds available in the gambling treatment fund established in the office of the treasurer of state pursuant to section 99E.10 to the Iowa department of public health for the fiscal year beginning July 1, 2000, and ending June 30, 2001, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

..... $ 3,882,000

2. Of the funds appropriated in subsection 1, $1,290,000 is allocated for the addictive disorders program, to be utilized for the benefit of persons with addictions.

3. Of the funds appropriated in subsection 1, $400,000 is allocated for elderly wellness for local public health, nursing, and home care aide/chore programs.

4. Of the funds appropriated in subsection 1, $100,000 is allocated to the division of community action agencies of the department of human rights to be used for the purposes of a healthy and well kids in Iowa outreach pilot project. Funds allocated in this subsection shall be utilized pursuant to a plan approved by the HAWK-I board.

5. Funds which remain after the allocations in subsections 2, 3, and 4, if any, are allocated 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.

Sec. 9. CHILDHOOD LEAD POISONING PREVENTION PROGRAM AND SUPPLEMENTAL PUBLIC HEALTH PROGRAM FUNDING. For the fiscal year beginning July 1, 2000, and ending June 30, 2001, from the tax revenue received by the state racing and gaming commission pursuant to section 99D.15, subsections 1, 3, and 4, an amount equal to three-tenths of one percent of the gross sum wagered by the pari-mutuel method is appropriated to the Iowa department of public health. Of the moneys appropriated pursuant to this section, not more than $50,000 shall be used to supplement amounts otherwise budgeted for the childhood lead poisoning prevention program. Remaining moneys appropriated pursuant to this section shall be used for costs associated with the child fatality review committee

provisions under section 135.43, as enacted by 2000 Iowa Acts, House File 2377,[2] the expansion of the age range for child death case review provisions as enacted under 2000 Iowa Acts, House File 2365,[3] and the Iowa domestic abuse death review team provisions as enacted under 2000 Iowa Acts, House File 2362.[4]

Sec. 10. VITAL RECORDS. The vital records modernization project as enacted in 1993 Iowa Acts, chapter 55, section 1, as amended by 1994 Iowa Acts, chapter 1068, section 8, as amended by 1997 Iowa Acts, chapter 203, section 9, 1998 Iowa Acts,[5] chapter 1221, section 9, and as continued by 1999 Iowa Acts, chapter 201, section 17, shall be extended until June 30, 2001, and the increased fees to be collected pursuant to that project shall continue to be collected and are appropriated to the Iowa department of public health until June 30, 2001.

Sec. 11. SCOPE OF PRACTICE REVIEW PROJECT. The scope of practice review committee pilot project as enacted in 1997 Iowa Acts, chapter 203, section 6, shall be extended until June 30, 2002. The Iowa department of public health shall submit an annual progress report to the governor and the general assembly by January 15 and shall include any recommendations for legislative action as a result of review committee activities. The department may contract with a school or college of public health in Iowa to assist in implementing the project.

Sec. 12. CHILDHOOD LEAD POISONING STUDY AND REPORT.

1. The director of public health, in consultation with an ad hoc committee appointed by the director and comprised of public health officials, health care providers, consumer groups, educators, early childhood development specialists, housing officials, property owners, real estate interests, representatives from the environmental health chapter team of Healthy Iowans 2010, and other members deemed appropriate by the director, shall conduct a study regarding prevention of lead poisoning among children in the state. The study shall include, but is not limited to, the following:

a. An assessment of the incidence and prevalence of lead poisoning in the state, including the determination of any geographic, social, or economic patterns or other common characteristics which identify vulnerable populations in the state who are at-risk of lead poisoning.

b. An evaluation of the effectiveness of current childhood lead screening efforts and voluntary options and alternatives to increase lead screening, including incorporating lead screening information and efforts into ongoing immunization programs and activities. The study shall also identify opportunities to increase and enhance efforts that focus on preventing lead poisoning in children.

c. A review of current federal, state, and local laws, rules and regulatory programs, including standards and other requirements associated with federal, state, and local housing programs. The review shall include an evaluation of options and alternatives to encourage the adoption of more uniform standards across the state.

d. An effort to identify additional federal funding sources and opportunities to enhance medical assistance match dollars to address lead poisoning prevention, screening, medical case management, and environmental remediation.

e. An evaluation of the availability and effectiveness of current resources, programs, and efforts to address lead poisoning in children.

f. Consideration of the findings and recommendations of Healthy Iowans 2010 relating to lead poisoned children.

2. The director shall submit a report of the study's recommendations to the governor and the general assembly by January 1, 2001, and shall present recommendations to a joint meeting of the human resources committees of the senate and house of representatives during the 2001 legislative session.

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[2] Chapter 1137 herein

[3] Chapter 1051 herein

[4] Chapter 1136 herein

[5] The phrase "as extended by 1998 Iowa Acts" probably intended

Sec. 13. NEW SECTION. 231C.6 IOWA ASSISTED LIVING FEES.

The department of elder affairs shall collect and retain assisted living program certification and accreditation fees as established by rule. Fees collected and retained pursuant to this section shall be deposited into an assisted living program fund created in the state treasury under the authority of the department and are appropriated to the department to carry out the purposes of this chapter. Amounts deposited in the fund 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 into the fund shall be credited to the fund. Amounts deposited in the fund that remain unexpended or unencumbered at the close of the fiscal year shall remain in the fund for utilization as provided in this section for the following fiscal year.

Sec. 14. Section 232.190, Code 1999, is amended to read as follows:

232.190 COMMUNITY GRANT FUND.

1. A community grant fund is established in the state treasury under the control of the division of criminal and juvenile justice planning of the department of human rights for the purposes of awarding grants under this section. The criminal and juvenile justice planning advisory council and the juvenile justice advisory council shall assist the division in administering grants awarded under this section. The departments of education, human services, public health, and public safety, and the governor's alliance on substance abuse shall advise the division on grant ~~application and selection~~ award criteria and performance measures for the programs. Not more than five percent of the moneys appropriated to the fund shall be used for administrative purposes.

2. ~~A city, county, or entity organized under chapter 28E~~ Any decategorization governance board organized in accordance with section 232.188 may apply to the division for a grant ~~on a matching basis~~ to fund juvenile crime prevention programs that emphasize positive youth development. ~~The match may be obtained from private sources, other state programs, or federal programs.~~ The division shall adopt rules ~~establishing required matching fund levels that progressively increase as applicants receive a second or subsequent year of consecutive funding through the community grant fund. The division shall not accept an application for a fourth or subsequent consecutive year of funding. However, cities, counties, or entities organized under chapter 28E receiving grants prior to July 1, 1998, may apply and receive funding for an additional two consecutive years beyond June 30, 1998~~ for awarding of grant moneys, including but not limited to data factors and a methodology for use in allocating moneys among the decategorization projects based upon a project's proportion of the state's population of children.

3. Applications for moneys from the community grant fund ~~shall define the geographical boundaries of the site chosen to benefit from the funds from this program and~~ shall demonstrate a collaborative effort by all relevant local government and school officials and service agencies with authority, responsibilities, or other interests within the ~~chosen site~~ decategorization project area. Proposed plans set forth in the applications shall reflect ~~a~~ community-wide consensus in how to remediate community problems related to juvenile crime ~~and shall describe how the funds from this program will be used in a manner consistent with the human investment strategy of the state as developed pursuant to section 8A.1~~. Services provided under a grant through this program shall be comprehensive, preventive, community-based, and shall utilize flexible delivery systems and promote youth development. ~~The division shall establish a point system for determining eligibility for grants from the fund based upon the nature and breadth of the proposed community juvenile crime prevention plans and the extent to which the proposals include viable plans to sustain the funding and local governance of the proposed juvenile crime prevention services and activities following the proposed grant period.~~ A plan for grant moneys under this section shall be a part of or be consistent with the annual child welfare services plan developed by the governance board of the decategorization project area and submitted to the department of human services and Iowa empowerment board pursuant to section 232.188.

4. The division shall provide ~~potential applicants for grant moneys~~ decategorization governance boards with information describing comprehensive community planning techniques and performance measures for this program ~~and~~. The division shall establish a monitoring system for this program that requires participating ~~cities, counties, and entities organized under chapter 28E~~ decategorization governance boards to report information with which to measure program performance. ~~The division shall solicit input from cities, counties, and service-providing agencies on the establishment of program performance measures and the structure of the program monitoring system.~~ Applications for grant moneys shall state specific results sought to be obtained by any service or activity funded by a grant under this section and shall describe how their desired results are related to the program's performance measures.

5. This section is repealed effective June 30, ~~2000~~ 2005. The division of criminal and juvenile justice planning shall annually submit ~~an annual~~ a report to the general assembly by January 15 regarding the program's performance measures and the effectiveness of the services and activities funded under this section.

Sec. 15. Section 602.8108, subsection 3, paragraph c, Code 1999, is amended to read as follows:

c. Notwithstanding provisions of this subsection to the contrary, all moneys collected from the drug abuse resistance education surcharge provided in section 911.2 shall be remitted to the treasurer of state for deposit in the general fund of the state and the amount deposited is appropriated to the ~~Iowa law enforcement academy~~ governor's office of drug control policy for use by the drug abuse resistance education program.

Sec. 16. Section 691.6, Code Supplement 1999, is amended by adding the following new subsection:

NEW SUBSECTION. 4. To collect and retain autopsy fees as established by rule. Autopsy fees collected and retained under this subsection are appropriated for purposes of the state medical examiner's office. Notwithstanding section 8.33, any fees collected by the state medical examiner that remain unexpended at the end of the fiscal year shall not revert to the general fund of the state or any other fund but shall be available for use for the following fiscal year for the same purpose.

Sec. 17. EFFECTIVE AND APPLICABILITY DATES.

1. Section 5, subsection 10, paragraph "i", of this Act, relating to the retention of fees for reduction of the number of days needed to process medical license requests and to consider malpractice cases, being deemed of immediate importance, takes effect upon enactment and is retroactively applicable to July 1, 1999.

2. Section 10 of this Act, relating to the vital records modernization project, being deemed of immediate importance, takes effect upon enactment.

3. Section 13 of this Act, establishing an assisted living certification fund into which program fees and revenue shall be credited, being deemed of immediate importance, takes effect upon enactment and is retroactively applicable to July 1, 1999.

4. Section 14 of this Act, relating to the community grant fund, being deemed of immediate importance, takes effect upon enactment.

5. Section 16 of this Act, amending section 691.6, and relating to the collection and retention of autopsy fees, being deemed of immediate importance, takes effect upon enactment and is retroactively applicable to July 1, 1999.

Approved May 8, 2000

CHAPTER 1223

APPROPRIATIONS — EDUCATION

H.F. 2549

AN ACT relating to the funding of, operation of, and appropriation of moneys to the college student aid commission, the department of cultural affairs, the department of education, and the state board of regents, providing related statutory changes, and providing for retroactive applicability and effective dates.

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

COLLEGE STUDENT AID COMMISSION

Section 1. There is appropriated from the general fund of the state to the college student aid commission for the fiscal year beginning July 1, 2000, and ending June 30, 2001, 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:

..... $ 325,801

..... FTEs 5.40

2. DES MOINES UNIVERSITY — OSTEOPATHIC MEDICAL CENTER

a. For forgivable loans to Iowa students attending the Des Moines university — osteopathic medical center under the forgivable loan program pursuant to section 261.19:

..... $ 254,260

b. For the Des Moines university — osteopathic medical center for an initiative in primary health care to direct primary care physicians to shortage areas in the state:

..... $ 395,000

3. STUDENT AID PROGRAMS

For payments to students for the Iowa grant program:

..... $ 1,144,850

4. NATIONAL GUARD EDUCATIONAL ASSISTANCE PROGRAM

For purposes of providing national guard educational assistance under the program established in section 261.86:

..... $ 1,250,000

5. CHIROPRACTIC GRADUATE STUDENT FORGIVABLE LOAN PROGRAM

For purposes of providing forgivable loans under the program established in section 261.71:

..... $ 100,000

6. TEACHER SHORTAGE FORGIVABLE LOAN PROGRAM

For the teacher shortage forgivable loan program established in section 261.111:

..... $ 525,000

DEPARTMENT OF CULTURAL AFFAIRS

Sec. 2. There is appropriated from the general fund of the state to the department of cultural affairs for the fiscal year beginning July 1, 2000, and ending June 30, 2001, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. ARTS DIVISION

For salaries, support, maintenance, miscellaneous purposes, including funds to match federal grants and for not more than the following full-time equivalent positions:

..... $ 1,408,269

..... FTEs 10.00

2. HISTORICAL DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 3,264,561
..... FTEs 65.70

Notwithstanding the full-time equivalent position limit established in this subsection, for the fiscal year ending June 30, 2001, if federal funding is received to pay the costs of an additional employee for the historical division, authorization to hire not more than 1.0 additional full-time equivalent employee is provided, the full-time equivalent position limit shall be exceeded, and the additional employee shall be hired by the division.

3. HISTORIC SITES

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 597,563
..... FTEs 8.00

4. ADMINISTRATION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 241,853
..... FTEs 4.30

The department of cultural affairs shall coordinate activities with the tourism division of the department of economic development to promote attendance at the state historical building and at this state's historic sites.

5. COMMUNITY CULTURAL GRANTS

For planning and programming for the community cultural grants program established under section 303.3, and for not more than the following full-time equivalent position:

..... $ 691,149
..... FTEs 0.70

DEPARTMENT OF EDUCATION

Sec. 3. There is appropriated from the general fund of the state to the department of education for the fiscal year beginning July 1, 2000, and ending June 30, 2001, the following amounts, or so much thereof as may be necessary, to be used for the purposes designated:

1. GENERAL ADMINISTRATION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 5,875,863
..... FTEs 98.45

The director of the department of education shall ensure that all school districts are aware of the state education resources available on the state website for listing teacher job openings and shall make every reasonable effort to enable qualified practitioners to post their resumes on the state website. The department shall administer the posting of job vacancies for school districts, accredited nonpublic schools, and area education agencies on the state website. The department may coordinate this activity with the Iowa school board association or other interested education associations in the state.

2. VOCATIONAL EDUCATION ADMINISTRATION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 566,741
..... FTEs 15.60

3. BOARD OF EDUCATIONAL EXAMINERS

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 200,454

..... FTEs 6.00

4. VOCATIONAL REHABILITATION SERVICES DIVISION

a. For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 4,878,700

..... FTEs 302.25

From the funds appropriated in this lettered paragraph, up to $2,000,000 shall be used to provide services to persons without regard to a waiting list. The division shall seek additional local matching funds in an amount sufficient to avoid any loss of federal funds.

The division of vocational rehabilitation services shall seek a waiver from the federal government to accept assessments of clients performed by area education agencies or any other governmental subdivision. The division shall also seek additional federal waivers to improve and increase the availability of supported employment services to Iowans.

The division of vocational rehabilitation services shall seek funds other than federal funds, which may include but are not limited to local funds from local provider entities, community colleges, area education agencies, and local education agencies, for purposes of matching federal vocational rehabilitation funds. The funds collected by the division may exceed the amount needed to match available federal vocational rehabilitation funds in an effort to qualify for additional federal funds when such funds 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, 2001, 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:

..... $ 76,401

..... FTEs 1.00

The highest priority use for the moneys appropriated under this lettered paragraph shall be for programs that emphasize employment and assist persons with severe physical or mental disabilities to find and maintain employment to enable them to function more independently.

5. STATE LIBRARY

a. For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 3,131,600

..... FTEs 20.00

Reimbursement of the institutions of higher learning under the state board of regents for participation in the access plus program during the fiscal year beginning July 1, 2000, and ending June 30, 2001, shall not exceed the total amount of reimbursement paid to the regents institutions of higher learning for participation in the access plus program during the fiscal year beginning July 1, 1999, and ending June 30, 2000.

b. For the enrich Iowa program:

..... $ 1,000,000

(1) Funds allocated for purposes of the enrich Iowa program as provided in this lettered paragraph shall be distributed by the division of libraries and information services to eligible public libraries that are in compliance with performance measures adopted by rule by the commission of libraries. The funds allocated as provided in this lettered paragraph shall not be used for the costs of administration by the division. The amount distributed to each eligible public library shall be based upon the following:

(a) The level of compliance by the eligible public library with the performance measures adopted by the commission as provided in this subparagraph.

(b) The number of people residing within an eligible library's geographic service area for whom the library provides services.

(c) The amount of other funding the eligible public library received in the previous fiscal year for providing services to rural residents and to contracting communities.

(2) Moneys received by a public library under this lettered paragraph shall supplement, not supplant, any other funding received by the library.

(3) For purposes of this section, "eligible public library" means a public library that meets all of the following requirements:

(a) Submits to the division all of the following:

(i) The report provided for under section 256.51, subsection 1, paragraph "h".

(ii) An application and accreditation report, in a format approved by the commission, that provides evidence of the library's compliance with at least one level of the standards established in accordance with section 256.51, subsection 1, paragraph "k".

(iii) Any other application or report the division deems necessary for the implementation of the enrich Iowa program.

(b) Participates in the library resource and information sharing programs established by the state library.

(c) Is a public library established by city ordinance or a county library as provided in chapter 336.

(4) Each eligible public library shall maintain a separate listing within its budget for payments received and expenditures made pursuant to this lettered paragraph, and shall annually submit this listing to the division.

(5) By January 15, 2001, the division shall submit a program evaluation report to the general assembly and the governor detailing the uses and the impacts of funds allocated under this lettered paragraph. It is the intent of the general assembly to address the continuation of the enrich Iowa program during the 2001 legislative session.

(6) A public library that receives funds in accordance with this lettered paragraph shall have an internet use policy in place, which may or may not include internet filtering. The library shall submit a report describing the library's internet use efforts to the division.

6. REGIONAL LIBRARY

For state aid:

..... $ 1,687,000

7. PUBLIC BROADCASTING DIVISION

For salaries, support, maintenance, capital expenditures, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 8,048,155

..... FTEs 106.40

8. VOCATIONAL EDUCATION TO SECONDARY SCHOOLS

For reimbursement for vocational education expenditures made by secondary schools:

..... $ 3,308,850

Funds appropriated in this subsection shall be used for expenditures made by school districts to meet the standards set in sections 256.11, 258.4, and 260C.14 as a result of the enactment of 1989 Iowa Acts, chapter 278. Funds shall be used as reimbursement for vocational education expenditures made by secondary schools in the manner provided by the department of education for implementation of the standards set in 1989 Iowa Acts, chapter 278.

9. SCHOOL FOOD SERVICE

For use as state matching funds for federal programs that shall be disbursed according to federal regulations, including salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 2,716,119

..... FTEs 14.00

10. IOWA EMPOWERMENT FUND

For deposit in the school ready children grants account of the Iowa empowerment fund created in section 28.9:

..... $ 15,600,000

a. From the moneys deposited in the school ready children grants account for the fiscal year beginning July 1, 2000, and ending June 30, 2001, not more than $200,000 is allocated for the community empowerment office and other technical assistance activities. It is the intent of the general assembly that regional technical assistance teams will be established and will include staff from various agencies, as appropriate, including the area education agencies, community colleges, and the Iowa state university of science and technology cooperative extension service in agriculture and home economics. The state empowerment board shall direct staff to work with the advisory council to inventory technical assistance needs. Funds allocated under this lettered paragraph may be used by the state empowerment board for the purpose of skills development and support for ongoing training of the regional technical assistance teams. However, funds shall not be used for additional staff or for the reimbursement of staff.

As a condition of receiving funding appropriated in this subsection, each local empowerment board shall report to the state empowerment board progress on each of the state indicators approved by the state board, as well as progress on local indicators.

School ready children grants account funds shall be distributed through a grant application process. Grant awards shall be contingent upon the availability of funds. The deadline for applications for school ready children grants in the fiscal year beginning July 1, 2000, shall be August 31, 2000, with grant awards to be made on or about October 2, 2000.

b. For the fiscal year beginning July 1, 2000, in awarding grants and establishing grant amounts for all designated community empowerment areas that have never been awarded a school ready children grant, the Iowa empowerment board shall give consideration to the future implementation of a funding formula for distribution of the grant moneys, anticipation of the state moving over a period of years to full funding of the grant program, and the reasonable expectations of community empowerment areas for a process of equitable distribution of funds.

c. The provisions of paragraph "b" are not applicable to those designated community empowerment areas that were awarded a school ready children grant prior to the fiscal year beginning July 1, 2000, and those areas shall be held harmless from the provisions implemented by the Iowa empowerment board pursuant to paragraph "b".

11. TEXTBOOKS OF NONPUBLIC SCHOOL PUPILS

To provide funds for costs of providing textbooks to each resident pupil who attends a nonpublic school as authorized by section 301.1. The funding is limited to $20 per pupil and shall not exceed the comparable services offered to resident public school pupils:

..... $ 650,000

12. 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:

..... $ 94,400

13. NATIONAL BOARD CERTIFICATION

For the issuance of national board certification awards in accordance with section 256.44:

..... $ 1,380,000

Notwithstanding section 8.33, funds appropriated for purposes of this subsection which remain unencumbered or unobligated at the close of the fiscal year, shall not revert but shall

be available for expenditure for purposes of issuing national board certification awards during the succeeding fiscal year.

14. BEGINNING TEACHER INDUCTION PROGRAM

For purposes of the beginning teacher induction program as provided in section 256E.2:

..... $ 775,000

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.

15. FAMILY RESOURCE CENTER DEMONSTRATION PROGRAM

For support of the family resource center demonstration program established under chapter 256C:

..... $ 90,000

16. EDUCATION INNOVATION PROJECT GRANTS

To support innovative research-based K-12 education projects:

..... $ 425,000

a. From the funds appropriated in this subsection, the sum of $225,000 shall be used by the department of education for a study of methods to improve teacher compensation and to award education innovation project grants. Eligible projects shall demonstrate research-based innovative methods to improve the quality of teaching or promote attraction and retention of teachers in the teaching profession, identify measurable performance indicators and annually report results, and demonstrate how the project can be self-supporting within a three-year to five-year period. Notwithstanding section 8.33, unencumbered or unobligated funds remaining on June 30 of the fiscal year from funds allocated in this paragraph shall not revert but shall be available for expenditure for the following fiscal year for the purposes of this paragraph.

b. The department shall establish pilot regional academies in cooperation with school districts, area education agencies, and postsecondary institutions. From the funds appropriated in this subsection, not more than $200,000 shall be used to plan and implement pilot regional academies to provide high school students with advanced level courses and technical courses not currently available within the curriculum in their district of attendance.

c. The department shall submit a report on the status of the projects receiving grants under this subsection to the senate and house standing committees on education and the joint appropriations subcommittee on education by December 1, 2000.

17. LOCAL ARTS COMPREHENSIVE EDUCATIONAL STRATEGIES PROGRAM (LACES)

For contracting with the Iowa alliance for arts education to execute their local arts comprehensive educational strategies:

..... $ 25,000

18. CONNECTING EDUCATION AND WORKFORCE DEVELOPMENT

For purposes of providing support to statewide school-to-work implementation through professional development opportunities, employability skill revalidation, partnership capacity building, connecting to the department of workforce development's making connections system implementation, and the integration of academic and vocational education, and for not more than the following full-time equivalent positions:

..... $ 210,000

..... FTEs 2.00

19. EMPLOYABILITY SKILLS ASSESSMENTS REIMBURSEMENTS

For reimbursement of school district claims for the costs of acquiring and using employability skills assessment tools as provided in this subsection:

..... $ 200,000

a. The department of education shall reimburse school district claims for the costs of acquiring, administering, and scoring assessment tools to assess the employability skills of students. The director of education shall identify available employability skills assessment tools that school districts may use to meet the claim reimbursement requirements of this subsection.

b. In order to be eligible for reimbursement under this subsection, a school district shall submit a claim on forms provided by the department by July 15, 2001, and the claim shall state the actual costs incurred and shall be accompanied by an affidavit of an officer of the school district affirming the accuracy of the claim.

c. A school district that submits to the department a claim for reimbursement in accordance with this subsection shall develop and integrate specific employability skills goals and activities into the comprehensive school improvement plan required under section 256.7, subsection 21, paragraph "a".

d. The department of education shall certify to the department of revenue and finance the amounts of approved claims to be paid, and the department of revenue and finance shall draw warrants payable to school districts with approved claims, taking into consideration the relative budget and cash position of the state resources.

e. Moneys received under this subsection shall not be commingled with state aid payments made under section 257.16 to a school district and shall be accounted for by the school district separately from state aid payments. Payments made to a school district under this subsection are miscellaneous income for purposes of chapter 257.

f. If the funds appropriated in this subsection are insufficient to pay in full the claims submitted by school districts and approved by the department, the amounts of approved claims shall be prorated among all school districts with approved claims.

20. 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:

..... $ 333,000

21. AMERICORPS AFTER-SCHOOL INITIATIVE

For purposes of the americorps after-school initiative:

..... $ 121,000

22. AMBASSADOR TO EDUCATION

For purposes of the ambassador to education program established in section 256.45:

..... $ 75,000

23. COMMUNITY COLLEGES

For general state financial aid, including general financial aid to merged areas in lieu of personal property tax replacement payments, to merged areas as defined in section 260C.2, for vocational education programs in accordance with chapters 258 and 260C:

..... $ 147,577,403

The funds appropriated in this subsection shall be allocated as follows:

a. Merged Area I	$	7,082,328
b. Merged Area II	$	8,319,148
c. Merged Area III	$	7,728,299
d. Merged Area IV	$	3,777,429
e. Merged Area V	$	7,902,847
f. Merged Area VI	$	7,321,837
g. Merged Area VII	$	10,564,438
h. Merged Area IX	$	12,993,495
i. Merged Area X	$	20,391,658
j. Merged Area XI	$	21,642,884
k. Merged Area XII	$	8,526,664
l. Merged Area XIII	$	8,767,984
m. Merged Area XIV	$	3,822,470
n. Merged Area XV	$	12,027,969
o. Merged Area XVI	$	6,707,953

Sec. 4. DISTRIBUTION OF FUNDS APPROPRIATED. For the fiscal year beginning July 1, 2000, and ending June 30, 2001, moneys appropriated by the general assembly from

the general fund of the state to the department of education for community colleges for a fiscal year shall be allocated to each community college by the department of education in the following manner:

1. BASE FUNDING. The base funding for a fiscal year shall be equal to the amount each community college received as an allocation from appropriations made from the general fund of the state in the most recent fiscal year.

2. DISTRIBUTION FOR INFLATION. First priority shall be to give each college an increase based upon inflation. The inflation increase shall be not less than 2 percent. However, the inflation increase shall be equal to the national inflation rate, if it exceeds 2 percent, if the amount of state aid appropriated is equal to or greater than the national inflation rate.

3. DISTRIBUTION BASED ON PROPORTIONAL SHARE OF ENROLLMENT. The balance of the growth in state aid appropriations, once the inflation increase has been satisfied, shall be distributed based on each college's proportional share of enrollment. However, a minimum of one percent of the total growth shall be distributed in this manner.

4. If the total appropriation made by the general assembly is less than 2 percent growth, the entire increase shall be distributed as inflation.

Sec. 5. PROVIDING LIMITED PHASE III MONEYS DISTRIBUTION AUTHORITY TO THE DIRECTOR. Notwithstanding the appropriations in section 294A.25, subsections 6, 9, and 14 for the fiscal year beginning July 1, 2000, the director of the department of education is authorized to determine the amount of phase III moneys which shall be distributed for the purposes described in section 294A.25, subsections 6, 9, and 14 for the fiscal year beginning July 1, 2000.

Sec. 6. AREA EDUCATION AGENCY REORGANIZATION STUDY. The department of education shall complete a study and make recommendations for the alignment of area education boundaries in the event of voluntary area education agency merger or restructuring to best ensure the equitable, effective, and efficient delivery of core area education agency services to students and schools. The study shall be conducted in conjunction with representative administrators and board members from area education agencies, and in consultation with other K-12 representatives as determined by the department. The study shall consider population projections of the merged areas, enrollment projections, number of school districts and schools served, financial resources, efficient and effective delivery of core services as required under area education agency accreditation under chapter 273, existing and possible regional collaborations, and possible reorganization incentives. The department shall forward recommendations and any possible reorganization plans to the area education agency boards no later than July 1, 2001. The department shall forward any recommendations for statutory changes that may be required to accomplish area education agency reorganization to the senate and house standing committees on education and the joint appropriations subcommittee on education not later than December 15, 2000.

Sec. 7. BOARD OF EDUCATIONAL EXAMINERS LICENSING FEES. Notwithstanding section 272.10, up to 85 percent of any funds received annually resulting from an increase in fees approved and implemented for licensing by the state board of educational examiners after July 1, 1997, shall be available for the fiscal year beginning July 1, 2000, to the state board for purposes related to the state board's duties, including, but not limited to, additional full-time equivalent positions. The director of revenue and finance shall draw warrants upon the treasurer of state from the funds appropriated as provided in this section and shall make the funds resulting from the increase in fees available during the fiscal year to the state board on a monthly basis.

*Sec. 8. *PROFESSIONAL DEVELOPMENT STUDY. The board of educational examiners shall conduct a study of the use of school days for the professional development of teachers by school districts and area education agencies. Each school district and area education*

* Item veto; see message at end of the Act

*agency shall submit to the board by August 1, 2000, in the manner required by the board, data relating to the use of school days for the professional development of teachers. The board shall develop and recommend alternatives to reduce the number of school days used for the professional development of teachers. The board shall submit its recommendations by December 1, 2000, in a report to the senate and house standing committees on education and the joint appropriations subcommittee on education.**

Sec. 9. LOCAL PUBLIC LIBRARIES SUPPORT SERVICES STUDY. The commission of libraries shall coordinate a study of the state library structure. The commission, the area education agencies, and the regional libraries jointly shall compile a list of the support functions currently provided to local libraries by the regional system, including but not limited to the continuation of consultation and educational programs for library staff and trustees concerning all facets of library management and operation and intraregional interlibrary loan and information services, and shall develop a plan to provide those support functions and services more effectively and efficiently. The plan shall be submitted by December 1, 2000, to the senate and house standing committees on education, the joint appropriations subcommittee on education, and the legislative fiscal bureau.

Sec. 10. 1999 Iowa Acts, chapter 205, section 7, subsections 13 and 15, are amended to read as follows:

13. NATIONAL BOARD CERTIFICATION

For the issuance of national board certification awards in accordance with section 256.44, if 1999 Iowa Acts, House File 766, is enacted:[1]

..... $ 1,000,000

Notwithstanding section 8.33, funds appropriated for purposes of this ~~section~~ subsection which remain unencumbered or unobligated at the close of the fiscal year, shall not revert but shall be available for expenditure for purposes of issuing national board certification awards during the succeeding fiscal year.

15. BEGINNING TEACHER INDUCTION PROGRAM

For purposes of the beginning teacher induction program as provided in section 256E.2:

..... $ 300,000

Notwithstanding section 8.33, moneys appropriated in this ~~section~~ 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.

STATE BOARD OF REGENTS

Sec. 11. There is appropriated from the general fund of the state to the state board of regents for the fiscal year beginning July 1, 2000, and ending June 30, 2001, 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:

..... $ 1,284,586

..... FTEs 15.63

The state board of regents, the department of management, and the legislative fiscal bureau shall cooperate to determine and agree upon, by November 15, 2000, the amount that needs to be appropriated for tuition replacement for the fiscal year beginning July 1, 2001.

The state board of regents shall submit a monthly financial report in a format agreed upon by the state board of regents office and the legislative fiscal bureau.

b. For allocation by the state board of regents to the state university of Iowa, the Iowa state university of science and technology, and the university of northern Iowa to reimburse the institutions for deficiencies in their operating funds resulting from the pledging of tuitions,

* Item veto; see message at end of the Act

[1] 1999 Iowa Acts, chapter 142

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:

..... $ 28,174,854

c. For funds to be allocated to the southwest Iowa graduate studies center:

..... $ 114,324

d. For funds to be allocated to the siouxland interstate metropolitan planning council for the tristate graduate center under section 262.9, subsection 21:

..... $ 83,778

e. For funds to be allocated to the quad-cities graduate studies center:

..... $ 171,382

2. STATE UNIVERSITY OF IOWA

a. General university, including lakeside laboratory

For salaries, support, maintenance, equipment, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 247,817,103

..... FTEs 4,055.62

It is the intent of the general assembly that the university continue progress on the school of public health and the public health initiative for the purposes of establishing an accredited school of public health and for funding an initiative for the health and independence of elderly Iowans. From the funds appropriated in this lettered paragraph, the university may use up to $2,100,000 for the school of public health and the public health initiative.

b. University hospitals

For salaries, support, maintenance, equipment, and miscellaneous purposes and for medical and surgical treatment of indigent patients as provided in chapter 255, for medical education, and for not more than the following full-time equivalent positions:

..... $ 32,515,915

..... FTEs 5,626.24

The university of Iowa hospitals and clinics shall, within the context of chapter 255 and when medically appropriate, make reasonable efforts to extend the university of Iowa hospitals and clinics' use of home telemedicine and other technologies to reduce the frequency of visits to the hospital required by indigent patients. The university of Iowa hospitals and clinics shall submit a report to the general assembly and the legislative fiscal bureau by January 15, 2001, describing its use of these technologies to accomplish this purpose.

The university of Iowa hospitals and clinics shall submit quarterly a report regarding the portion of the appropriation in this lettered paragraph expended on medical education. The report shall be submitted in a format jointly developed by the university of Iowa hospitals and clinics, the legislative fiscal bureau, and the department of management, and shall delineate the expenditures and purposes of the funds.

Funds appropriated in this lettered paragraph shall not be used to perform abortions except medically necessary abortions, and shall not be used to operate the early termination of pregnancy clinic except for the performance of medically necessary abortions. For the purpose of this lettered paragraph, an abortion is the purposeful interruption of pregnancy with the intention other than to produce a live-born infant or to remove a dead fetus, and a medically necessary abortion is one performed under one of the following conditions:

(1) The attending physician certifies that continuing the pregnancy would endanger the life of the pregnant woman.

(2) The attending physician certifies that the fetus is physically deformed, mentally deficient, or afflicted with a congenital illness.

(3) The pregnancy is the result of a rape which is reported within 45 days of the incident to a law enforcement agency or public or private health agency which may include a family physician.

(4) The pregnancy is the result of incest which is reported within 150 days of the incident to a law enforcement agency or public or private health agency which may include a family physician.

(5) The abortion is a spontaneous abortion, commonly known as a miscarriage, wherein not all of the products of conception are expelled.

The total quota allocated to the counties for indigent patients for the fiscal year beginning July 1, 2000, shall not be lower than the total quota allocated to the counties for the fiscal year commencing July 1, 1998. The total quota shall be allocated among the counties on the basis of the 1990 census pursuant to section 255.16.

c. Psychiatric hospital

For salaries, support, maintenance, equipment, miscellaneous purposes, for the care, treatment, and maintenance of committed and voluntary public patients, and for not more than the following full-time equivalent positions:

..... $ 8,241,465
..... FTEs 279.85

d. Hospital-school

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 7,305,037
..... FTEs 157.69

From the funds appropriated in this lettered paragraph, $200,000 shall be allocated for purposes of the creative employment options program.

e. Oakdale campus

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 3,169,417
..... FTEs 43.25

f. State hygienic laboratory

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 4,074,514
..... FTEs 102.49

g. Family practice program

For allocation by the dean of the college of medicine, with approval of the advisory board, to qualified participants, to carry out chapter 148D for the family practice program, including salaries and support, and for not more than the following full-time equivalent positions:

..... $ 2,398,895
..... FTEs 192.40

h. Child health care services

For specialized child health care services, including childhood cancer diagnostic and treatment network programs, rural comprehensive care for hemophilia patients, and the Iowa high-risk infant follow-up program, including salaries and support, and for not more than the following full-time equivalent positions:

..... $ 655,199
..... FTEs 9.22

i. Agricultural health and safety programs

For agricultural health and safety programs, and for not more than the following full-time equivalent positions:

..... $ 279,690
..... FTEs 3.48

j. Statewide cancer registry

For the statewide cancer registry, and for not more than the following full-time equivalent positions:

..... $ 214,020
..... FTEs 2.40

k. Substance abuse consortium

For funds to be allocated to the Iowa consortium for substance abuse research and evaluation, and for not more than the following full-time equivalent positions:

..... $ 75,536
..... FTEs 1.50

l. Center for biocatalysis

For the center for biocatalysis, and for not more than the following full-time equivalent positions:

..... $ 1,074,259
..... FTEs 5.20

m. Primary health care initiative

For the primary health care initiative in the college of medicine and for not more than the following full-time equivalent positions:

..... $ 901,405
..... FTEs 7.75

From the funds appropriated in this lettered paragraph, $330,000 shall be allocated to the department of family practice at the state university of Iowa college of medicine for family practice faculty and support staff.

n. Birth defects registry

For the birth defects registry and for not more than the following full-time equivalent position:

..... $ 51,984
..... FTEs 1.30

3. IOWA STATE UNIVERSITY OF SCIENCE AND TECHNOLOGY

a. General university

For salaries, support, maintenance, equipment, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 196,418,464
..... FTEs 3,607.44

It is the intent of the general assembly that the university continue progress on the center for excellence in fundamental plant sciences. From the funds appropriated in this lettered paragraph, the university may use up to $4,670,000 for the center for excellence in fundamental plant sciences.

The general assembly declares that it is possible that a few large companies may be able to control all levels of the food chain, including production, because these companies own the genetics needed to participate in the food system of the future, and finds this possibility to be a major threat to the independence and profitability of Iowa's agricultural producers. To ensure public ownership of plant genetic material, all rights to the research products developed by the Iowa state university of science and technology's botany institute using state-appropriated funds will be made available to the extent practicable for commercialization, for the benefit of all Iowans, including Iowa's agricultural producers, through a public process which normally involves nonexclusive licensing of genes and germplasm.

b. Agricultural experiment station

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 36,184,371
..... FTEs 546.98

c. Cooperative extension service in agriculture and home economics

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 22,821,278
..... FTEs 430.91

From the funds appropriated in this lettered paragraph, $150,000 shall be used for the food, fiber, and environmental science program, and $1,066,000 shall be used for the value-added agricultural projects as part of the extension 21 program.

The cooperative extension service in agriculture and home economics at Iowa state university of science and technology shall conduct a study, in consultation with the department of human services, that identifies all educational materials, seminars, and assistance offered by the extension service which are duplicative, either directly or in subject area, of educational materials, seminars, and assistance offered by the department of human services. The cooperative extension service shall submit its findings in a report to the general assembly and the legislative fiscal bureau by January 15, 2001.

d. Leopold center

For agricultural research grants at Iowa state university under section 266.39B, and for not more than the following full-time equivalent positions:

.....	$	576,969
.....	FTEs	11.25

e. Livestock disease research

For deposit in and the use of the livestock disease research fund under section 267.8, and for not more than the following full-time equivalent positions:

.....	$	279,077
.....	FTEs	3.17

4. UNIVERSITY OF NORTHERN IOWA

a. General university

For salaries, support, maintenance, equipment, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	$	87,811,041
.....	FTEs	1,416.86

It is the intent of the general assembly that the university continue progress on the implementation of a masters in social work program. From the funds appropriated in this lettered paragraph, the university may use up to $450,000 for the implementation of the masters in social work program, up to $100,000 for the roadside vegetation project, and up to $200,000 for the Iowa office for staff development.

b. Recycling and reuse center

For purposes of the recycling and reuse center, and for not more than the following full-time equivalent positions:

.....	$	248,878
.....	FTEs	1.50

5. STATE SCHOOL FOR THE DEAF

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	$	7,964,367
.....	FTEs	126.60

6. IOWA BRAILLE AND SIGHT SAVING SCHOOL

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	$	4,447,925
.....	FTEs	91.05

7. TUITION AND TRANSPORTATION COSTS

For payment to local school boards for the tuition and transportation costs of students residing in the Iowa braille and sight saving school and the state school for the deaf pursuant to section 262.43 and for payment of certain clothing and transportation costs for students at these schools pursuant to section 270.5:

.....	$	16,941

* Item veto; see message at end of the Act

Sec. 12. MEDICAL ASSISTANCE — SUPPLEMENTAL AMOUNTS. For the fiscal year beginning July 1, 2000, and ending June 30, 2001, the department of human services shall continue the supplemental disproportionate share and a supplemental indirect medical education adjustment applicable to state-owned acute care hospitals with more than 500 beds and shall reimburse qualifying hospitals pursuant to that adjustment with a supplemental amount for services provided medical assistance recipients. The adjustment shall generate supplemental payments intended to equal the state appropriation made to a qualifying hospital for treatment of indigent patients as provided in chapter 255. To the extent of the supplemental payments, a qualifying hospital shall, after receipt of the funds, transfer to the department of human services an amount equal to the actual supplemental payments that were made in that month. The aggregate amounts for the fiscal year shall not exceed the state appropriation made to the qualifying hospital for treatment of indigent patients as provided in chapter 255. The department of human services shall deposit these funds in the department's medical assistance account. To the extent that state funds appropriated to a qualifying hospital for the treatment of indigent patients as provided in chapter 255 have been transferred to the department of human services as a result of these supplemental payments made to the qualifying hospital, the department shall not, directly or indirectly, recoup the supplemental payments made to a qualifying hospital for any reason, unless an equivalent amount of the funds transferred to the department of human services by a qualifying hospital pursuant to this provision is transferred to the qualifying hospital by the department.

If the state supplemental amount allotted to the state of Iowa for the federal fiscal year beginning October 1, 2000, and ending September 30, 2001, pursuant to section 1923(f)(3) of the federal Social Security Act, as amended, or pursuant to federal payments for indirect medical education is greater than the amount necessary to fund the federal share of the supplemental payments specified in the preceding paragraph, the department of human services shall increase the supplemental disproportionate share or supplemental indirect medical education adjustment by the lesser of the amount necessary to utilize fully the state supplemental amount or the amount of state funds appropriated to the state university of Iowa general education fund and allocated to the university for the college of medicine. The state university of Iowa shall transfer from the allocation for the college of medicine to the department of human services, on a monthly basis, an amount equal to the additional supplemental payments made during the previous month pursuant to this paragraph. A qualifying hospital receiving supplemental payments pursuant to this paragraph that are greater than the state appropriation made to the qualifying hospital for treatment of indigent patients as provided in chapter 255 shall be obligated as a condition of its participation in the medical assistance program to transfer to the state university of Iowa general education fund on a monthly basis an amount equal to the funds transferred by the state university of Iowa to the department of human services. To the extent that state funds appropriated to the state university of Iowa and allocated to the college of medicine have been transferred to the department of human services as a result of these supplemental payments made to the qualifying hospital, the department shall not, directly or indirectly, recoup these supplemental payments made to a qualifying hospital for any reason, unless an equivalent amount of the funds transferred to the department of human services by the state university of Iowa pursuant to this paragraph is transferred to the qualifying hospital by the department.

Continuation of the supplemental disproportionate share and supplemental indirect medical education adjustment shall preserve the funds available to the university hospital for medical and surgical treatment of indigent patients as provided in chapter 255 and to the state university of Iowa for educational purposes at the same level as provided by the state funds initially appropriated for that purpose.

The department of human services shall, in any compilation of data or other report distributed to the public concerning payments to providers under the medical assistance program, set forth reimbursements to a qualifying hospital through the supplemental dispro-

portionate share and supplemental indirect medical education adjustment as a separate item and shall not include such payments in the amounts otherwise reported as the reimbursement to a qualifying hospital for services to medical assistance recipients.

For purposes of this section, "supplemental payment" means a supplemental payment amount paid for medical assistance to a hospital qualifying for that payment under this section.

Sec. 13. 2000 Iowa Acts, House File 2039,[2] section 24, is amended to read as follows:

SEC. 24. MEDICAL ASSISTANCE CLAIMING BY STATE BOARD OF REGENTS. The state shall enter into a contract to enhance claiming of medical assistance program reimbursement payable for services provided by the state university of Iowa hospitals and clinics. After payment of contract costs, the first ~~$4,000,000~~ $12,000,000 received in additional reimbursement from the enhanced claiming during the period beginning with the effective date of this Act, and ending June 30, 2001, shall be credited to the general fund of the state. The balance of the additional reimbursement received during the period is appropriated to the state board of regents for the state university of Iowa hospitals and clinics for other expenses associated with the enhanced claiming and for the provision of services. The state board of regents shall report quarterly during the period delineated in this section to the department of management and the legislative fiscal bureau concerning the enhanced claiming and reimbursement that is received and anticipated.

For purposes of this section, "enhanced claiming" does not include any process already being utilized by the state university of Iowa hospitals and clinics to identify and seek reimbursement from appropriate payors. Individual patient accounts shall not be eligible for participation in enhanced claiming activities until the state university of Iowa hospitals and clinics certifies that its internal processes to identify and seek reimbursement from appropriate payors have been completed. Should additional reimbursement from the enhanced claiming fail to equal the targeted amount to be credited to the general fund, the state university of Iowa hospitals and clinics shall not be held responsible for making up the shortfall.

Sec. 14. STATE UNIVERSITY OF IOWA — DEPARTMENT OF HUMAN SERVICES. The department of human services shall transfer to the state university of Iowa for the purposes of the creative employment options program the same amount of moneys in the fiscal year beginning July 1, 2000, and ending June 30, 2001, as was transferred in the fiscal year beginning July 1, 1997, and ending June 30, 1998.

Sec. 15. For the fiscal year beginning July 1, 2000, and ending June 30, 2001, the state board of regents may use notes, bonds, or other evidences of indebtedness issued under section 262.48 to finance projects that will result in energy cost savings in an amount that will cause the state board to recover the cost of the projects within an average of six years.

Sec. 16. Notwithstanding section 270.7, the department of revenue and finance shall pay the state school for the deaf and the Iowa braille and sight saving school the moneys collected from the counties during the fiscal year beginning July 1, 2000, for expenses relating to prescription drug costs for students attending the state school for the deaf and the Iowa braille and sight saving school.

Sec. 17. Section 28.3, subsection 2, Code Supplement 1999, is amended to read as follows:

2. The Iowa board shall consist of ~~fifteen~~ seventeen voting members with ~~twelve~~ thirteen citizen members and ~~three~~ four state agency members. The ~~three~~ four state agency members shall be the directors of the following departments: education, human rights, human services, and public health. The ~~twelve~~ thirteen citizen members shall be appointed by the governor, subject to confirmation by the senate. The governor's appointments of citizen members shall be made in a manner so that each of the state's congressional districts is

[2] Chapter 1214 herein

represented by two citizen members and so that all the appointments as a whole reflect the ethnic, cultural, social, and economic diversity of the state. The governor's appointees shall be selected from individuals nominated by community empowerment area boards. The nominations shall reflect the range of interests represented on the community boards so that the governor is able to appoint one or more members each for education, health, human services, business, faith, and public interests. At least one of the citizen members shall be a service consumer or the parent of a service consumer. Terms of office of all citizen members are three years. A vacancy on the board shall be filled in the same manner as the original appointment for the balance of the unexpired term.

Sec. 18. Section 135.11, subsection 18, Code Supplement 1999, is amended to read as follows:

18. Consult with the office of statewide clinical education programs at the university of Iowa college of medicine and annually submit a report to the general assembly by January 15 verifying the number of physicians in active practice in Iowa by county who are engaged in providing obstetrical care. To the extent data are readily available, the report shall include information concerning the number of deliveries per year by specialty and county, the age of physicians performing deliveries, and the number of current year graduates of the university of Iowa college of medicine and the Des Moines university ~~of~~ — osteopathic ~~medicine and health sciences~~ medical center entering into residency programs in obstetrics, gynecology, and family practice. The report may include additional data relating to access to obstetrical services that may be available.

**Sec. 19. NEW SECTION. 135.26 OBSTETRICAL BRACHIAL PLEXUS PALSY CONSULTATION.*

*The university of Iowa hospitals and clinics shall develop and maintain a comprehensive database of information regarding obstetrical brachial plexus palsy treatment options and success rates. In every case where a diagnosis of obstetrical brachial plexus palsy is made, the parents or legal guardians of an infant so diagnosed shall be given the opportunity to consult with an obstetrical brachial plexus palsy specialist regarding treatment options and reported success rates currently documented in medical literature for obstetrical brachial plexus palsy. The objective of the consultation shall be to place a parent or legal guardian in the position of subsequently making an educated and informed decision regarding the pursuit of obstetrical brachial plexus palsy treatment.**

Sec. 20. Section 135.107, subsection 3, paragraph d, subparagraph (1), Code 1999, is amended to read as follows:

(1) The Iowa department of public health, in cooperation with a primary care collaborative effort including the university of Iowa college of medicine, the Des Moines university ~~of~~ — osteopathic ~~medicine and health sciences~~ medical center, and other primary care professional educational institutions in Iowa, shall develop and establish area health education centers. The effort shall involve making application for a federal grant under 42 U.S.C. § 293j, as prescribed by that section.

Sec. 21. Section 135.107, subsection 4, Code 1999, is amended to read as follows:

4. The director of public health shall establish a primary care collaborative work group to coordinate all statewide recruitment and retention activities established pursuant to this section and to make recommendations to the department and the center for rural health and primary care relating to the implementation of subsection 3. Membership of the work group shall consist, at a minimum, of representatives from the university of Iowa college of medicine, Des Moines university ~~of~~ — osteopathic ~~medicine and health sciences~~ medical center, university of Iowa physician assistant school, university of Iowa nurse practitioner school, Des Moines university ~~of~~ — osteopathic ~~medicine and health sciences~~ medical center physician assistant program, Iowa-Nebraska primary care association, Iowa medical society,

* Item veto; see message at end of the Act

Iowa osteopathic medical association, Iowa chapter of American college of osteopathic family physicians, Iowa academy of family physicians, nurse practitioner association, Iowa nurses association, association of Iowa hospitals and health systems, and Iowa physicians assistants association.

Sec. 22. Section 235C.3, subsection 2, paragraph b, Code Supplement 1999, is amended to read as follows:

b. A health professional training campaign, including recommendations concerning the curriculum offered at the college of medicine at the state university of Iowa and the Des Moines university ~~of~~ — osteopathic ~~medicine and health sciences~~ medical center, providing assistance in the identification of women at risk of substance abuse during pregnancy and strategies to be employed in assisting those women to maintain healthy lifestyles during pregnancy. This education campaign shall offer information to health professionals on assessment, laboratory testing, and referrals.

Sec. 23. Section 256.42, subsection 4, Code 1999, is amended by striking the subsection.

Sec. 24. Section 256B.15, subsection 7, paragraph a, Code 1999, is amended to read as follows:

a. The treasurer of the state shall credit receipts received under this section to the department of human services to pay contractual fees incurred by the department to maximize federal funding for special education services. All remaining receipts in excess of the amount necessary to pay contractual fees shall be credited to the ~~general fund of the state~~ department of human services medical assistance account.

Sec. 25. Section 256C.2, unnumbered paragraph 2, Code 1999, is amended to read as follows:

A district applying for a grant under this section shall agree, for each dollar of grant funds, to provide twenty cents in matching cash or in-kind resources. Grants may be awarded for four years, beginning July 1, 1994, and ending June 30, 1998. ~~Up to ten percent of the moneys appropriated for the grant program may be used by the council for staffing, technical assistance, and external evaluation development.~~ Notwithstanding section 8.33, unencumbered or unobligated funds remaining on June 30 of the fiscal year for which the funds were appropriated shall not revert but shall be available for expenditure for the following fiscal year for the purposes of this section.

Sec. 26. Section 261.12, subsection 1, paragraph b, Code Supplement 1999, is amended to read as follows:

b. For the fiscal year beginning July 1, ~~1999~~ 2000, and for each following fiscal year, ~~three~~ four thousand ~~nine hundred~~ dollars.

Sec. 27. Section 261.19, subsections 1 through 4, Code 1999, are amended to read as follows:

1. A physician recruitment program is established, to be administered by the college student aid commission, for the Des Moines university ~~of~~ — osteopathic ~~medicine and health sciences of Des Moines, Iowa~~ medical center. The program shall consist of a forgivable loan program and a tuition scholarship program for students and a loan repayment program for physicians. The commission shall regularly adjust the physician service requirement under each aspect of the program to provide, to the extent possible, an equal financial benefit for each period of service required. From funds appropriated for purposes of the program by the general assembly, the commission shall pay a fee to the Des Moines university ~~of~~ — osteopathic ~~medicine and health sciences~~ medical center for the administration of the program. A portion of the fee shall be paid by the commission to the university based upon the number of physicians recruited under subsection 4.

2. A forgivable loan may be awarded to a resident of Iowa who is enrolled at the Des Moines university ~~of~~ — osteopathic ~~medicine and health sciences~~ medical center if the student agrees to practice in this state for a period of time to be determined by the commission at the time the loan is awarded. Forgivable loans to eligible students shall not become due and interest on the loan shall not accrue until after the student completes a residency program. If the student completes the period of practice established by the commission and agreed to by the student, the loan amount shall be forgiven. The loan amount shall not be forgiven if the osteopathic physician fails to complete the required time period of practice in this state or fails to satisfactorily continue in the university's program of medical education.

3. A student enrolled at the Des Moines university ~~of~~ — osteopathic ~~medicine and health sciences~~ medical center shall be eligible for a tuition scholarship for the student's study at the university. The scholarship shall be for an amount not to exceed the annual tuition at the university. A student who receives a tuition scholarship shall not be eligible for the loan repayment program provided for by this section. A student who receives a tuition scholarship shall agree to practice in an eligible rural community in this state for a period of time to be determined by the commission at the time the scholarship is awarded. The student shall repay the scholarship to the commission if the student fails to practice in a medically underserved rural community in this state for the required period of time.

4. A physician shall be eligible for the physician loan repayment program if the physician agrees to practice in an eligible rural community in this state. The Des Moines university ~~of~~ — osteopathic ~~medicine and health sciences~~ medical center shall recruit and place physicians in rural communities which have agreed to provide additional funds for the physician's loan repayment. The contract for the loan repayment shall stipulate the time period the physician shall practice in an eligible rural community in this state. In addition, the contract shall stipulate that the physician repay any funds paid on the physician's loan by the commission if the physician fails to practice in an eligible rural community in this state for the required period of time. For purposes of this subsection, "eligible rural community" means a medically underserved rural community which agrees to match state funds provided on at least a dollar-for-dollar basis for the loan repayment of a physician who practices in the community.

Sec. 28. Section 261.25, subsection 1, Code Supplement 1999, is amended to read as follows:

1. There is appropriated from the general fund of the state to the commission for each fiscal year the sum of ~~forty-seven~~ forty-eight million ~~six~~ eight hundred ~~sixty-four~~ thirty thousand ~~seven hundred fifty~~ seventy-five dollars for tuition grants.

Sec. 29. Section 261.85, unnumbered paragraph 1, Code 1999, is amended to read as follows:

There is appropriated from the general fund of the state to the commission for each fiscal year the sum of two million ~~nine~~ seven hundred fifty thousand dollars for the work-study program.

Sec. 30. Section 266.39C, subsection 3, unnumbered paragraph 1, Code 1999, is amended to read as follows:

Iowa state university of science and technology shall employ a director for the center, who shall be appointed by the president of Iowa state university of science and technology. The director of the center shall employ necessary research and support staff. The director and staff shall be employees of Iowa state university of science and technology. No more than ~~five~~ seven hundred thousand dollars of the funds made available by appropriation from state revenues in any one year shall be expended by the center for the salaries and benefits of the employees of the center, including the salary and benefits of the director. The remainder of the funds appropriated from state funds shall be used to sponsor research grants and projects

submitted on a competitive basis by Iowa colleges and universities and private nonprofit agencies and foundations. The center may also solicit additional grants and funding from public and private nonprofit agencies and foundations.

Sec. 31. Section 272.12, Code 1999, as amended by 2000 Iowa Acts, House File 2146,[3] section 5, if enacted, is amended to read as follows:

272.12 PARA-EDUCATOR CERTIFICATES.

The board of educational examiners shall adopt rules pursuant to chapter 17A relating to a voluntary certification system for para-educators. The rules shall specify rights, responsibilities, levels, and qualifications for the certificate. Applicants shall be disqualified for any reason specified in section 272.6 or in administrative rule. Notwithstanding section 272.6, subsection 1, paragraph "a", the board may issue a para-educator certificate to a person who is at least eighteen years of age. A person holding a para-educator certificate shall not perform the duties of a licensed practitioner. A certificate issued pursuant to this chapter shall not be considered a teacher or administrator license for any purpose specified by law, including the purposes specified under this chapter or chapter 279.

Sec. 32. Section 283A.2, subsection 2, paragraph b, unnumbered paragraph 1, and paragraph c, as enacted by 1999 Iowa Acts, chapter 147, section 1, are amended to read as follows:

The board of directors of a school district that wishes to provide safe, reasonable student access to a school breakfast program, rather than operate or provide for the operation of a school breakfast program at a specific attendance center within the school district shall develop an alternative site plan to operate the school breakfast program at another attendance center or other site within the school district and shall annually certify to the department that the plan meets the following criteria:

c. The board of directors of a school district that wishes to provide access to a school breakfast program in accordance with paragraph "b", shall notify the parent, guardian, or legal or actual custodian of a child enrolled in the school district of the school district's intention to develop and implement a plan to provide school breakfast programs ~~only in certain attendance centers~~ at an alternative site. At any time in which the school district proposes to make substantive changes to a plan certified with the department of education, the notification requirements of this paragraph shall apply.

Sec. 33. Section 294A.25, subsections 6, 10, and 14, Code Supplement 1999, are amended to read as follows:

6. For the fiscal year beginning July 1, ~~1999~~ 2000, and ending June 30, ~~2000~~ 2001, from phase III moneys the amount of fifty thousand dollars to the department of education for the geography alliance.

10. For the fiscal year beginning July 1, ~~1998~~ 2000, and for each succeeding fiscal year, the amount of one hundred seventy thousand dollars to the state board of regents for ~~equal~~ distribution in the amount of sixty-eight thousand dollars to the Iowa braille and sight saving school and in the amount of one hundred two thousand dollars to the Iowa state school for the deaf from phase III moneys.

14. For the fiscal year beginning July 1, ~~1999~~ 2000, and ending June 30, ~~2000~~ 2001, to the department of education from phase III moneys the amount of fifty thousand dollars for the Iowa mathematics and science coalition.

Sec. 34. Section 294A.25, subsection 7, Code Supplement 1999, is amended by striking the subsection.

Sec. 35. RETROACTIVE APPLICABILITY. Section 256C.2, unnumbered paragraph 2, as amended in this Act, is retroactively applicable to July 1, 1999. Any moneys retained by

[3] Chapter 1098 herein

the child development coordinating council for the fiscal year beginning July 1, 1999, for staffing, technical assistance, and external evaluation development shall be awarded in demonstration program grants as provided in chapter 256C.

Sec. 36. EFFECTIVE DATE. Section 10 of this Act, relating to 1999 Iowa Acts, chapter 205; section 25, amending section 256C.2; and section 35, relating to retroactive applicability, being deemed of immediate importance, take effect upon enactment.

Approved May 10, 2000, with exceptions as noted.

THOMAS J. VILSACK, *Governor*

Dear Mr. Secretary:

I hereby transmit House File 2549, relating to the funding of, operation of, and appropriation of moneys to the college student aid commission, the department of cultural affairs, the department of education, and the state board of regents, providing related statutory changes, and providing for retroactive applicability and effective dates.

House File 2549 provides funding to help Iowans attain their educational goals. I am particularly pleased with the commitment to early childhood education through local empowerment areas, the Jobs for America's Graduates program, Americorps afterschool plans, teacher induction and mentoring, National Board certified teachers support, vocational/technical student grants, Iowa Tuition Grants, national guard education assistance, the UNI masters in social work program, and the ISU plant science initiative, which were approved as I had recommended.

Significant additional support contained in House File 2549 for teacher shortage loans, local libraries, education innovations, community colleges, the UI college of public health, and public television is also worthy of note, although it fell short of the level of support I recommended.

Clearly, there are shortcomings in this legislation in some other areas, which I hope can be better addressed in the future. I am disappointed that funding in this bill for state universities fell significantly below my recommended level. While we were able to improve these allocations in negotiation with legislative leaders late in the session, they clearly fell short of our goals, and will need more attention in the year ahead, along with several other issues.

I am hopeful that legislators will work with me in the coming year to provide the resources necessary to further enhance educational opportunities for all Iowans. House File 2549 is, therefore, approved on this date, with the following exceptions, which I hereby disapprove.

I am unable to approve the item designated as Section 8 in its entirety. This language requires the Board of Educational Examiners to conduct a study of the use of school days for the professional development of teachers. Requiring school districts and Area Education Agencies to submit to the Board, by August 1, data relating to the use of school days for professional development is unrealistic. Additionally, I am concerned that the scope of the proposed study would require the BOEE to divert resources from the critical task of licensing teaching professionals, since no additional resources were allocated for the study. I believe the BOEE should focus on their core function rather than this study in the coming year.

I am unable to approve the item designated as Section 9 in its entirety. This language requires the Commission of Libraries to conduct a study of the state library structure. The Commission has voted to undertake a study of library service, inclusive of all types of libraries in Iowa. In the next few weeks, I understand the Commission will appoint a task force, representative of the Iowa library community and other stakeholders, to undertake the study. I anticipate this study will be completed prior to the next legislative session. Based on this information, I believe a useful study of library services in the state will be accomplished without the necessity of the legislative mandate contained in this bill.

I am unable to approve the designated portion of Section 11, subsection 3, paragraph c, last unnumbered paragraph. This would direct the cooperative extension service at Iowa State University, in consultation with the department of human services, to identify educational materials, seminars, and assistance which are duplicative, directly or in subject areas, of educational materials, seminars, and assistance offered by the department of human services. In the absence of additional resources provided for either agency to conduct this study, I am concerned the completion of this project would result in the diversion of time and resources from the core services these agencies provide to Iowans. I believe it is more appropriate for the extension service and the human services department to focus on the delivery of services to Iowans rather than to perform the study requested in this bill.

I am unable to approve the item designated as Section 19 in its entirety. This language directs the University of Iowa to develop and maintain a comprehensive data base regarding treatment options and success rates related to neonatal brachial plexus injury and treatment. It is my understanding that the University officials have held discussions on these treatment options with interested parties, and have indicated to me their willingness to continue discussions that could lead to better communication with concerned families. I have encouraged them to continue such efforts in the coming year, and based on their assurances that they will do so, I believe the language contained in Section 19 is unnecessary.

For the above reasons, I hereby respectfully approve House File 2549 with the exceptions noted above.

Sincerely,
THOMAS J. VILSACK, *Governor*

CHAPTER 1224

APPROPRIATIONS — AGRICULTURE AND NATURAL RESOURCES

S.F. 2430

AN ACT relating to and making appropriations involving state government, including provisions affecting agriculture and natural resources and providing effective dates.

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

DIVISION I
DEPARTMENT OF AGRICULTURE AND LAND STEWARDSHIP

Section 1. GENERAL DEPARTMENT APPROPRIATION. There is appropriated from the general fund of the state to the department of agriculture and land stewardship for the fiscal year beginning July 1, 2000, and ending June 30, 2001, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. ADMINISTRATIVE DIVISION

a. For salaries, support, maintenance, the support of the state 4-H foundation, support of the statistics bureau, and miscellaneous purposes, and for the salaries and support of not more than the following full-time equivalent positions:

..... $ 2,301,660
..... FTEs 47.88

(1) Of the amount appropriated and full-time equivalent positions authorized in this paragraph "a", $282,975 and 6.00 FTEs shall be used to support horticulture.

(2) Of the amount appropriated in this paragraph "a", $55,000 shall be allocated to the state 4-H foundation to foster the development of Iowa's youth and to encourage them to study the subject of agriculture.

(3) Of the amount appropriated and full-time equivalent positions authorized in this paragraph "a", $227,489 and 7.00 FTEs shall be allocated to the statistics bureau to provide county-by-county information on land in farms, production by crop, acres by crop, and county prices by crop. This information shall be made available to the department of revenue and finance for use in the productivity formula for valuing and equalizing the values of agricultural land.

(4) Of the amount appropriated in this paragraph "a", $12,000 shall be used by the agricultural statistics bureau for purposes of collecting, summarizing, and publishing marketing information on a monthly basis, regarding finished cattle in cooperation with the Iowa cattlemen's association, including unfinished cattle for market, cattle placed on feed, and cattle on hand under marketing arrangements.

(5) Of the amount appropriated in this paragraph "a", $24,000 shall be used by the domestic marketing bureau through an existing federal and state cooperative agreement to develop accurate, reliable market information regarding segregated early-weaned pigs and alternate feeder pigs marketing systems.

(6) Of the amount appropriated and the number of full-time equivalent positions authorized in this paragraph "a", at least $61,500 shall be used for livestock market news reporting.

(7) Of the amount appropriated in this paragraph "a", $24,939 shall be used to support 1.00 FTE on contract basis for six part-time staff to perform functions related to livestock market news reporting.

(8) Of the amount appropriated in this paragraph "a", $22,883 shall be used to support 1.00 FTE to operate the switchboard and perform receptionist duties for the department.

b. For deposit in the international relations fund created in section 159.21 of this Act to carry out the purposes of that fund:

..... $ 20,151

c. For the purpose of performing commercial feed audits:

..... $ 70,774

d. For the purpose of performing fertilizer audits:

..... $ 70,775

2. REGULATORY DIVISION

a. For salaries, support, maintenance, and miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 4,454,450

..... FTEs 126.00

(1) Of the amount appropriated in this paragraph "a", $10,000 shall be used by the regulatory division for purposes of inspecting livestock exhibited at the Iowa state fair, with particular attention to the inspection of livestock for club-lamb fungus.

(2) If Senate File 2312[1] or House File 2490[2] is not enacted by the Seventy-eighth General Assembly, 2000 Session, the amount appropriated from the general fund pursuant to this paragraph "a" shall be decreased by $200,000 and the number of full-time equivalent positions authorized pursuant to this paragraph "a" shall be decreased by 4.00 FTEs.

b. For the costs of inspection, sampling, analysis, and other expenses necessary for the administration of chapters 192 and 194:

..... $ 708,859

3. LABORATORY DIVISION

a. For salaries, support, maintenance, and miscellaneous purposes, including the administration of the gypsy moth program, and for not more than the following full-time equivalent positions:

..... $ 951,666

..... FTEs 82.00

(1) Of the amount appropriated and the number of full-time equivalent positions authorized in this paragraph "a", $150,000 shall be allocated and 4.93 FTEs shall be supported from the allocation to administer a program relating to the detection, surveillance, and eradication of the gypsy moth. The department shall use the allocation made in this subparagraph before other moneys appropriated under this paragraph "a".

(2) If Senate File 466[3] is enacted by the Seventy-eighth General Assembly, 2000 Session, the number of full-time equivalent positions authorized pursuant to this paragraph "a" shall be increased by 2.00 FTEs.

b. For the operations of the commercial feed programs:

..... $ 785,637

c. For the operations of the pesticide programs:

..... $ 1,285,638

(1) Of the amount appropriated in this paragraph "c", $200,000 shall be allocated to Iowa state university of science and technology for purposes of training commercial pesticide applicators.

(2) Of the amount appropriated in this paragraph "c", $13,247 shall be used to support 1.00 FTE in a temporary employment position to assist with the administration of pesticide certification examinations.

d. For the operations of the fertilizer programs:

..... $ 679,406

4. SOIL CONSERVATION DIVISION

a. For salaries, support, maintenance, assistance to soil conservation districts, and miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 6,985,526

..... FTEs 195.11

(1) Of the amount appropriated in this paragraph "a", $418,376 shall be used to reimburse commissioners of soil and water conservation districts for administrative expenses, including, but not limited to, travel expenses and technical training. Moneys used for the payment of meeting dues by counties shall be matched on a dollar-for-dollar basis by the soil conservation division.

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[1] Chapter 1110 herein

[2] Not enacted

[3] Chapter 1184 herein

(2) Of the number of full-time equivalent positions authorized in this paragraph "a", 20.00 FTEs shall be supported from allocations made pursuant to § 319 of the federal Water Quality Act of 1987, as codified in 33 U.S.C. § 1329, and from appropriations to the department from the Iowa resources enhancement and protection fund.

(3) Of the number of full-time equivalent positions authorized pursuant to this paragraph "a", 2.00 FTEs shall be used to support the conservation reserve enhancement program.

b. To provide financial incentives for soil conservation practices under chapter 161A:

..... $ 5,500,850

c. The following requirements apply to the moneys appropriated in paragraph "b":

(1) Not more than 5 percent of the moneys appropriated in paragraph "b" may be allocated by the department for cost-sharing to abate complaints filed under section 161A.47.

(2) Of the moneys appropriated in paragraph "b", 5 percent shall be allocated for financial incentives to establish practices to protect watersheds above publicly owned lakes of the state from soil erosion and sediment as provided in section 161A.73.

(3) Not more than 30 percent of a district's allocation of moneys as financial incentives may be provided for the purpose of establishing management practices to control soil erosion on land that is row-cropped, including but not limited to no-till planting, ridge-till planting, contouring, and contour strip-cropping as provided in section 161A.73.

(4) The state soil conservation committee created in section 161A.4 may allocate moneys appropriated in paragraph "b" to conduct research and demonstration projects to promote conservation tillage and nonpoint source pollution control practices.

(5) The financial incentive payments may be used in combination with department of natural resources moneys.

d. Notwithstanding section 8.33, moneys appropriated in paragraph "b" 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, 2003.

Sec. 2. FARMERS' MARKET COUPON 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, 2000, and ending June 30, 2001, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For salaries, support, maintenance, and miscellaneous purposes, to be used by the department to continue and expand the farmers' market coupon program by providing federal special supplemental food program recipients with coupons redeemable at farmers' markets, and for not more than the following full-time equivalent positions:

..... $ 301,373
..... FTEs 2.00

DIVISION II
DEPARTMENT OF NATURAL RESOURCES
GENERAL APPROPRIATIONS

Sec. 3. GENERAL DEPARTMENT APPROPRIATION. There is appropriated from the general fund of the state to the department of natural resources for the fiscal year beginning July 1, 2000, and ending June 30, 2001, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. ADMINISTRATIVE AND SUPPORT SERVICES

a. For salaries, support, maintenance, and miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 2,156,396
..... FTEs 118.25

b. Of the amount appropriated in paragraph "a", $12,000 shall be allocated to pay dues for membership in the upper Mississippi, Illinois, and Missouri river basin commission.

c. Of the amount appropriated and the number of full-time equivalent positions authorized in paragraph "a", not less than $34,000 and 1.00 FTE shall be used by administrative and support services to support the inspection and oversight of manure management plans associated with confinement feeding operations regulated by the department.

2. PARKS AND PRESERVES DIVISION

For salaries, support, maintenance, and miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 6,316,603
..... FTEs 195.73

Of the amount appropriated in this subsection 2, at least $50,000 shall be allocated for the replacement of maintenance equipment used by the division.

3. FORESTS AND FORESTRY DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 1,764,696
..... FTEs 53.71

4. ENERGY AND GEOLOGICAL RESOURCES DIVISION

a. For salaries, support, maintenance, and miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 1,963,515
..... FTEs 59.00

b. Of the amount appropriated and the number of full-time equivalent positions authorized in paragraph "a", not less than $76,000 and 2.00 FTEs shall be used by the energy and geological resources division to review soil and hydrology data for construction permits and manure management plans associated with confinement feeding operations regulated by the department.

5. ENVIRONMENTAL PROTECTION DIVISION

a. For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 5,053,110
..... FTEs 246.50

b. Of the amount appropriated in paragraph "a", at least $1,350,000 shall be used by the department to carry out the provisions of the federal Clean Air Act, including amendments to the Act, and regulations adopted pursuant to the Act by the United States environmental protection agency; and to study the merits and advisability of the air quality bureau assisting Iowa industry in implementing the enlibre air quality model.

c. Of the amount appropriated and the number of full-time equivalent positions authorized in paragraph "a", at least $424,600 and 9.00 FTEs shall be primarily used to support the regulation of animal feeding operations.

d. Of the amount appropriated and the number of full-time equivalent positions authorized in paragraph "a", at least $370,000 and 9.00 FTEs shall be used to support on-site inspections and the oversight of manure management plans associated with confinement feeding operations regulated by the department. It is the intent of the general assembly that 3.00 FTEs and moneys used to support those full-time equivalent positions not be available after June 30, 2002.

e. Of the amount appropriated in paragraph "a", $105,564 shall be used to contract with persons to process manure management plans as required by the department.

f. Of the amount appropriated and the number of full-time equivalent positions authorized in paragraph "a", at least $700,467 and 10.00 FTEs shall be used to support the regulation of wastewater treatment systems, including issuing permits and conducting inspections.

6. WATER QUALITY PROTECTION FUND

a. For deposit in the administration account of the water quality protection fund administered by the department, to carry out the purpose of that account:

..... $ 729,000

b. Of the number of full-time equivalent positions authorized for the environmental protection division in subsection 5, paragraph "a", 32.50 FTEs shall be dedicated to carrying out relevant Code provisions relating to the administration, regulation, and enforcement of the federal Safe Drinking Water Act and to support the program to assist water supply systems. However, the limitation on full-time equivalent positions provided in subsection 5, paragraph "a", shall not limit the number of additional full-time equivalent positions supported by moneys deposited in the water quality protection fund in order to carry out Code provisions relating to the administration, regulation, and enforcement of the federal Safe Drinking Water Act, and the administration of the program to assist water supply systems.

c. In providing assistance to water supply systems, the department shall give priority to water supply systems serving a population of 7,000 or less. At least 2.00 FTEs shall be allocated by the department to provide assistance to systems serving a population of 7,000 or less.

7. FISH AND WILDLIFE DIVISION

For not more than the following full-time equivalent positions:

..... FTEs 354.18

a. Of the number of full-time equivalent positions authorized in this subsection, not more than 2.00 FTEs shall be filled by full-time, year-round employees with fringe benefits. Not more than 5.00 FTEs shall be filled by part-time employees who do not receive fringe benefits. The full-time equivalent positions shall be dedicated to carrying out conservation buffer initiatives which shall include buffer strip sign-ups, shelter belts, the restoration of wetlands, and the development of private landowners natural resource protection plans.

b. Of the number of full-time equivalent positions authorized in this subsection, at least 3.00 FTEs shall be dedicated to supporting prairie seed harvest initiatives.

8. WASTE MANAGEMENT ASSISTANCE DIVISION

For not more than the following full-time equivalent positions:

..... FTEs 17.75

Sec. 4. STATE FISH AND GAME PROTECTION FUND — APPROPRIATION TO THE DIVISION OF FISH AND WILDLIFE.

1. a. There is appropriated from the state fish and game protection fund to the division of fish and wildlife of the department of natural resources for the fiscal year beginning July 1, 2000, and ending June 30, 2001, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For administrative support, and for salaries, support, maintenance, equipment, and miscellaneous purposes:

..... $ 25,429,883

b. Of the amount appropriated in paragraph "a", $250,000 may be used for purposes of providing compensation to conservation peace officers employed in a protection occupation who retire, pursuant to section 97B.49B.

c. Of the amount appropriated in paragraph "a", $700,000 shall be used for conservation buffer initiatives which shall include buffer strip sign-ups, shelter belts, the restoration of wetlands, and the development of private landowners natural resource protection plans. In carrying out conservation buffer initiatives, the department shall collaborate with the department of agriculture and land stewardship.

d. Of the amount appropriated in paragraph "a", $600,000 shall be used to support prairie seed harvest initiatives.

2. The department shall not expend more moneys from the fish and game protection fund than provided in this section, unless the expenditure derives from contributions made by a private entity, or a grant or moneys received from the federal government, and is approved by the natural resource commission. The department of natural resources shall promptly notify the legislative fiscal bureau and the chairpersons and ranking members of the joint appropriations subcommittee on agriculture and natural resources concerning the commission's approval.

TRANSFERS

Sec. 5. SNOWMOBILE FEES — TRANSFER FOR ENFORCEMENT PURPOSES. There is transferred on July 1, 2000, from the fees deposited 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, 2000, and ending June 30, 2001, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For enforcing snowmobile laws as part of the state snowmobile program administered by the department of natural resources:

..... $ 100,000

Sec. 6. VESSEL FEES — TRANSFER FOR ENFORCEMENT PURPOSES. There is transferred on July 1, 2000, from the fees deposited under section 462A.52 to the fish and game protection fund and appropriated to the natural resource commission for the fiscal year beginning July 1, 2000, and ending June 30, 2001, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For the administration and enforcement of navigation laws and water safety:

..... $ 1,400,000

1. Of the amount appropriated in this section and the full-time equivalent positions authorized in this Act for the fish and wildlife division, not more than $100,000 and 1.00 FTE may be used for purposes of controlling and eradicating eurasian milfoil.

2. Notwithstanding section 8.33, moneys transferred and appropriated in this section that remain unencumbered or unobligated at the close of the fiscal year shall not revert to the credit of the fish and game protection fund but shall be credited to the special conservation fund established by section 462A.52 to be used as provided in that section.

SICK LEAVE PAYOUT

Sec. 7. DEPARTMENT OF NATURAL RESOURCES — GENERAL FUND SICK LEAVE PAYOUT. There is appropriated from the general fund of the state to the department of natural resources for the fiscal year beginning July 1, 1999, and ending June 30, 2000, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For the value of sick leave payout that needs to be paid out due to retirement of personnel in the parks and preserves division:

..... $ 200,000

SPECIAL APPROPRIATIONS

Sec. 8. MARINE FUEL TAX RECEIPTS — BOATING FACILITIES. There is appropriated from the marine fuel tax receipts deposited in the general fund of the state to the department of natural resources for the fiscal year beginning July 1, 2000, and ending June 30, 2001, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For purposes of maintaining and developing boating facilities and access to public waters by the parks and preserves division:

..... $ 411,311

Sec. 9. REVENUE ADMINISTERED BY THE IOWA COMPREHENSIVE UNDERGROUND STORAGE TANK FUND BOARD. There is appropriated from the unassigned revenue fund administered by the Iowa comprehensive underground storage tank fund board, to the department of natural resources for the fiscal year beginning July 1, 2000, and ending June 30, 2001, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For administration expenses of the underground storage tank section of the department of natural resources:

..... $ 75,000

Sec. 10. ORGANIC NUTRIENT MANAGEMENT FUND — AGRICHEMICAL REMEDIATION. Notwithstanding section 161C.5, the unencumbered and unobligated balance of the organic nutrient management fund, as of July 1, 2000, is appropriated to the department of agriculture and land stewardship for deposit by the department into the agrichemical remediation fund established in chapter 161, if enacted in 2000 Iowa Acts, Senate File 466.[4]

Sec. 11. FLOODPLAIN PERMIT BACKLOG. Notwithstanding any provision of state law, for the fiscal year beginning July 1, 2000, and ending June 30, 2001, the department of natural resources may use additional funds available to the department from stormwater discharge permit fees for the staffing of the following additional full-time staff members to reduce the department's floodplain permit backlog:

..... FTEs 2.00

Sec. 12. IMPLEMENTATION OF THE FEDERAL TOTAL MAXIMUM DAILY LOAD PROGRAM. Notwithstanding any contrary provision of state law, for the fiscal year beginning July 1, 2000, and ending June 30, 2001, the department of natural resources may use additional funds available to the department from stormwater discharge permit fees, for the staffing of the following additional full-time equivalent positions for implementation of the federal total maximum daily load program:

..... FTEs 2.00

DIVISION III
RELATED APPROPRIATIONS
ANIMAL HEALTH AND INDUSTRY

Sec. 13. HORSE AND DOG RACING. There is appropriated from the moneys available under section 99D.13 to the regulatory division of the department of agriculture and land stewardship for the fiscal year beginning July 1, 2000, and ending June 30, 2001, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For salaries, support, maintenance, and miscellaneous purposes for the administration of section 99D.22:

..... $ 271,307

Sec. 14. PSEUDORABIES ERADICATION PROGRAM.

1. 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, 2000, and ending June 30, 2001, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For support of the pseudorabies eradication program:

..... $ 900,700

2. Persons, including organizations interested in swine production in this state and in the promotion of Iowa pork products who contribute support to the program, are encouraged to increase financial support for purposes of ensuring the program's effective continuation.

Sec. 15. JOHNE'S DISEASE. There is appropriated from the general fund of the state to the livestock disease research fund created in section 267.8 for the fiscal year beginning July 1, 2000, and ending June 30, 2001, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For the purpose of supporting research and to evaluate procedures and tests by Iowa state university of science and technology to accurately diagnose Johne's disease:

..... $ 100,000

1. 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 the general fund of the state but shall remain available for expenditure for the purpose designated in this section until the close of the fiscal year that begins July 1, 2002.

[4] Chapter 1184 herein

2. Moneys appropriated in this section shall only be used as provided in this section. No portion of the appropriation shall be used to support administrative costs incurred by Iowa state university of science and technology or the livestock health advisory council.

3. Moneys appropriated in this section shall be expended in accordance with the direction of the livestock health advisory council established pursuant to section 267.2.

OTHER APPROPRIATIONS

Sec. 16. REGENTS — COOPERATIVE EXTENSION. There is appropriated from the general fund of the state to the state board of regents for the fiscal year beginning July 1, 1999, and ending June 30, 2000, the following amount, or so much thereof as may be necessary, to be used for the purpose designated:

To Iowa state university of science and technology, cooperative extension service in agriculture and home economics, to support the Iowa concern hotline in providing stress counseling, information, and referral to farm families facing financial distress:

..... $ 150,000

Notwithstanding section 8.33, moneys appropriated in this section which remain unobligated or unexpended at the close of the fiscal year shall not revert but shall remain available to be used for the purposes designated in the succeeding fiscal year.

Sec. 17. STATE FIRE MARSHAL'S OFFICE. In addition to any allocation of full-time equivalent positions authorized by the Seventy-eighth General Assembly during the 2000 Session for the state fire marshal's office, for the fiscal year beginning July 1, 2000, and ending June 30, 2001, 1.00 additional FTE position is authorized for the office for inspections of aboveground petroleum storage tanks.

DIVISION IV
MISCELLANEOUS

Sec. 18. PILOT PROJECT FOR REFUND OF APPLICATION FEES BY THE DEPARTMENT OF NATURAL RESOURCES.

1. The department of natural resources may establish a pilot project for the refund of all or a portion of fees required to be paid to the department for issuing a stormwater discharge permit pursuant to section 455B.103A, if the department fails to issue the permit in a manner and within a period of time customary for issuing such permits. However, the department is not required to refund any amount of a fee if the failure to issue the permit is primarily caused by the applicant, including the applicant's failure to comply with legal requirements, furnish a completed application or document, or cooperate with the department as required of applicants by the department.

2. The department of natural resources shall adopt rules as necessary in order to establish and administer this section.

3. The department may consider a decision not to issue a refund under this section as a final agency action which is not subject to a contested case proceeding or further agency review under chapter 17A.

Sec. 19. 1999 Iowa Acts, chapter 204, section 15, subsection 4, paragraph a, is amended by striking the paragraph.

Sec. 20. 1999 Iowa Acts, chapter 206, section 3, subsection 6, paragraph d, is amended to read as follows:

d. Of the amount appropriated in paragraph "a", $300,000 shall be allocated to the department of natural resources for purposes of conducting a study of groundwater and surface water contamination in this state originating from municipal lagoons. The department shall not collect any fee for administering moneys appropriated in this section. The depart-

ment shall submit interim reports to the general assembly on January ~~10~~ 8, ~~2000~~ 2001, and January ~~8~~ 14, ~~2001~~ 2002. The department shall submit a final report to the general assembly regarding the results of its study not later than January ~~14~~ 13, ~~2002~~ 2003. Unobligated and unencumbered moneys from this allocation remaining on June 30, 2001, shall revert to the water quality protection fund.

Sec. 21. NEW SECTION. 8.39A TRANSFER OF MONEYS OR POSITIONS — CHANGES IN TABLES OF ORGANIZATION — NOTIFICATION.

In addition to the requirements of section 8.39, in each fiscal quarter, the department of agriculture and land stewardship and the department of natural resources shall notify the chairpersons, vice chairpersons, and ranking members of the joint appropriations subcommittee on agriculture and natural resources for the previous fiscal quarter of any transfer of moneys or full-time equivalent positions made by either department which is not authorized by law, or any permanent position added to or deleted from either department's table of organization.

Sec. 22. Section 8.60, subsection 4, Code 1999, is amended by striking the subsection.

Sec. 23. Section 101.22, subsection 4, Code 1999, is amended to read as follows:

4. The registration notice of the owner or operator to the state fire marshal under subsections 1 through 3 shall be accompanied by a fee of ten dollars for each tank included in the notice. All moneys collected shall be ~~deposited in the general fund~~ retained by the department of public safety and are appropriated for the use of the state fire marshal. The annual renewal fee applies to all owners or operators who filed a registration notice with the state fire marshal pursuant to subsections 1 through 3.

Sec. 24. Section 101.24, subsection 1, unnumbered paragraph 1, Code 1999, is amended to read as follows:

Inspect and investigate the facilities and records of owners and operators of aboveground petroleum storage tanks with a capacity of fifteen thousand or more gallons, as necessary to determine compliance with this division and the rules adopted pursuant to this division. An inspection or investigation shall be conducted subject to subsection 4. For purposes of developing a rule, maintaining an accurate inventory, or enforcing this division, the department may:

Sec. 25. NEW SECTION. 159.18 PUBLICIZING OF FARM PROGRAMS.

1. As used in this section, "farm programs" includes, but is not limited to, financial incentive programs established within the division of soil conservation of the department of agriculture and land stewardship as provided in section 161A.70 and the beginning farmer loan program administered by the agricultural development authority as provided in section 175.12.

2. The department shall publicize the availability of farm programs to women and minority persons. The department shall disseminate the information electronically or by publishing printed brochures for distribution to locations and institutions serving farmers, including departmental offices, financial institutions participating in farm programs, and soil and water conservation district offices.

3. The department shall cooperate with private institutions and public agencies in order to carry out this section, including the department of economic development and the United States department of agriculture.

Sec. 26. NEW SECTION. 159.21 INTERNATIONAL RELATIONS FUND.

1. An international relations 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.

2. Moneys in the fund are subject to an annual audit by the auditor of state. The fund is subject to warrants written by the director of revenue and finance, drawn upon the written requisition of the department.

3. Moneys in the fund are appropriated exclusively to support costs incurred by the department related to promoting the sale of Iowa agricultural commodities and agricultural products to government officials and business leaders of other nations. The department may use moneys in the fund to support travel, including international travel, for the secretary of agriculture or the secretary's designee, and hosting or attending trade missions, functions, or events.

4. Section 8.33 shall not apply to moneys in the fund. Notwithstanding section 12C.7, moneys earned as income or interest from the fund shall remain in the fund until expended as provided in this section.

Sec. 27. Section 214A.1, Code 1999, is amended by adding the following new subsections:

NEW SUBSECTION. 2A. "Motor vehicle fuel storage tank" means an aboveground or belowground container that is a fixture, used to keep an accumulation of motor vehicle fuel.

NEW SUBSECTION. 2B. "MTBE" means methyl tertiary butyl ether.

NEW SUBSECTION. 4A. "Sell" means to sell or to offer for sale.

Sec. 28. Section 214A.2, subsection 4, Code Supplement 1999, is amended to read as follows:

4. ~~Gasoline~~ Motor vehicle fuel shall not contain ~~methanol without an equal amount of cosolvent, and shall not contain more than five percent methanol~~ more than trace amounts of MTBE, as provided in section 214A.18.

Sec. 29. Section 214A.16, Code 1999, is amended to read as follows:

214A.16 NOTICE OF BLENDED FUEL — DECAL.

~~All~~ If motor vehicle fuel ~~kept, offered, or exposed for sale, or sold at retail containing over one percent ethanol, methanol, or any combination of oxygenate octane enhancers shall be identified as "with" either "ethanol", "methanol", "ethanol/methanol", or similar wording on~~ containing a renewable fuel is sold from a motor vehicle fuel pump, the pump shall have affixed a decal identifying the name of the renewable fuel. ~~All diesel fuel kept, offered, or exposed for sale, or sold at retail containing over one percent soybean oil by volume shall be identified as "with soydiesel" or similar wording on a decal.~~ The decal may be different based on the type of renewable fuel used. The design and location of the ~~decals~~ decal shall be prescribed by rules adopted by the department. ~~The department shall adopt the rules to be effective by January 1, 1995.~~ A decal identifying a renewable fuel shall be consistent with standards adopted pursuant to section 159A.6. ~~Until the department establishes standards for decals, the wording shall be on a white adhesive decal with black letters at least one-half inch high and at least one-quarter inch wide placed between thirty and forty inches above the driveway level on the front sides of any container or pump from which the motor fuel is sold.~~ The department may approve an application to place a decal in a special location on a pump or container or use a decal with special lettering or colors, if the decal appears clear and conspicuous to the consumer. The application shall be made in writing pursuant to procedures adopted by the department. ~~Designs for a decal identifying a renewable fuel shall be consistent with standards adopted pursuant to section 159A.6.~~

Sec. 30. NEW SECTION. 214A.18 MTBE PROHIBITION.

1. A person shall not do any of the following:

a. Sell motor vehicle fuel containing more than trace amounts of MTBE in this state.

b. Store motor vehicle fuel containing more than trace amounts of MTBE in a motor vehicle fuel storage tank located in this state.

2. As used in this section, "trace amounts" means not more than one-half of one percent by volume.

DIVISION V
EFFECTIVE DATE

Sec. 31. EFFECTIVE DATE. The following provisions of this Act, being deemed of immediate importance, take effect upon enactment:

1. Section 7, relating to department of natural resources general fund sick leave payout.
2. Section 16, relating to supporting Iowa state university of science and technology, cooperative extension service in agriculture and home economics, in providing assistance to farm families.
3. Section 20, relating to a study conducted by the department of natural resources relating to water contamination in this state.

Sec. 32. CONTINGENT EFFECTIVE DATE. Section 22 of this Act, amending section 8.60, subsection 4, takes effect only if chapter 192A is repealed by the Seventy-eighth General Assembly during its 2000 regular session.[5]

Approved May 11, 2000

CHAPTER 1225

APPROPRIATIONS — INFRASTRUCTURE AND CAPITAL PROJECTS

S.F. 2453

AN ACT relating to and making appropriations from the rebuild Iowa infrastructure fund to state departments and agencies, including the department for the blind, the department of corrections, the department of cultural affairs, the department of economic development, the department of general services, the judicial branch, the department of public safety, the state board of regents, the state department of transportation, the office of treasurer of state, and the commission of veterans affairs, creating an environment first fund and making appropriations from that fund for environmental purposes, making related Code language changes, providing for contingent effectiveness, and providing effective dates.

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

DIVISION I
REBUILD IOWA INFRASTRUCTURE FUND
DEPARTMENT FOR THE BLIND

Section 1. There is appropriated from the rebuild Iowa infrastructure fund to the department for the blind for the fiscal year beginning July 1, 2000, and ending June 30, 2001, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For improvements to the facility for the blind:
..... $ 122,000

DEPARTMENT OF CORRECTIONS

Sec. 2. There is appropriated from the rebuild Iowa infrastructure fund to the department of corrections for the fiscal year beginning July 1, 2000, and ending June 30, 2001, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

---

[5] See chapter 1091 herein

1. To supplement funds appropriated in 1998 Iowa Acts, chapter 1219, section 2, subsection 3, for construction of a 200-bed facility at the Iowa state penitentiary at Fort Madison:
..... $ 3,000,000

2. For community-based corrections projects:
..... $ 900,000

The first $300,000 of the amount appropriated in this subsection shall be allocated for community-based corrections projects in Council Bluffs. The next $600,000 of the amount appropriated in this subsection shall be allocated for community-based corrections projects in the judicial district in which the city of Davenport is located. These moneys may be used by the department to enter into lease-purchase agreements for such projects.

DEPARTMENT OF CULTURAL AFFAIRS

Sec. 3. There is appropriated from the rebuild Iowa infrastructure fund to the department of cultural affairs for the fiscal year beginning July 1, 2000, and ending June 30, 2001, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For historical site preservation grants, to be used for the restoration, preservation, and development of historical sites:
..... $ 2,500,000

Of the amount appropriated in this section, $600,000 shall be allocated for the final year of a multiyear funding effort by the state for the preservation of a building with historical and architectural significance, notwithstanding any provision of this section to the contrary.

Of the amount appropriated in this section, $150,000 shall be allocated for phase 1 of the project recommended by the Iowa battle flag advisory committee to stabilize the condition of the battle flag collection, notwithstanding any provision of this section to the contrary, notwithstanding section 8.57, subsection 5, paragraph "c".

Historical site preservation grants shall only be awarded for projects which meet the definition of "vertical infrastructure" in section 8.57, subsection 5, paragraph "c".

In making grants pursuant to this section, the department shall consider the existence and amount of other funds available to an applicant for the designated project. Each grant awarded from moneys appropriated in this section shall not exceed $100,000 per project. Not more than two grants may be awarded in each county.

DEPARTMENT OF ECONOMIC DEVELOPMENT

Sec. 4. There is appropriated from the rebuild Iowa infrastructure fund to the department of economic development for the fiscal year beginning July 1, 2000, and ending June 30, 2001, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. To be deposited in the physical infrastructure assistance fund created in section 15E.175:
..... $ 2,500,000

The moneys appropriated in this subsection shall be used for projects which cumulatively result in the creation of "vertical infrastructure", as defined in section 8.57, subsection 5, paragraph "c", having a total value of at least $2,500,000. The department shall report to the general assembly by June 30 of each fiscal year for which funds are appropriated in this subsection regarding the amount of such funds used for "vertical infrastructure" projects and the amount of such funds used for projects which result in the creation of "vertical infrastructure".

2. For accelerated career education program capital projects at community colleges which are authorized under chapter 260G and which meet the definition of "vertical infrastructure" in section 8.57, subsection 5, paragraph "c":
..... $ 5,300,000

The moneys appropriated in this subsection shall be allocated equally among the community colleges in the state. If any portion of the equal allocation to a community college is not

obligated or encumbered by April 1, 2001, the unobligated and unencumbered portions shall be available for use by other community colleges.

3. For deposit in the rural enterprise fund to be used for the dry fire hydrant and rural water supply education and demonstration project, notwithstanding section 8.57, subsection 5, paragraph "c":

..... $ 200,000

DEPARTMENT OF GENERAL SERVICES

Sec. 5. There is appropriated from the rebuild Iowa infrastructure fund to the department of general services for the fiscal year beginning July 1, 2000, and ending June 30, 2001, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

1. For capital projects and improvements at Terrace Hill:

..... $ 1,200,000

2. For facility utilization review services including a program statement, site recommendations, schematic designs, and other design development for additional facilities which will meet laboratory, office, and other facility needs of state agencies, including but not limited to interim or long-term leasing and relocation needs related to such projects, notwithstanding section 8.57, subsection 5, paragraph "c":

..... $ 3,200,000

3. For routine maintenance of state buildings and facilities under the purview of the department, notwithstanding section 8.57, subsection 5, paragraph "c":

..... $ 2,000,000

The department shall quarterly file a report with the legislative fiscal bureau detailing the use and disposition of funds appropriated in this subsection.[1]

Sec. 6. 1999 Iowa Acts, chapter 121, sections 11 and 12, are amended by striking the sections.

Sec. 7. 1999 Iowa Acts, chapter 204, section 4, subsection 1, is amended to read as follows:

1. For major renovation and major repair needs including health, life, and fire safety, for compliance with the federal Americans With Disabilities Act for state-owned buildings and facilities:

FY 1999-2000 ..... $ 7,500,000
FY 2000-2001 ..... $ ~~7,500,000~~
10,500,000

Notwithstanding section 8.57, subsection 5, paragraph "c", of the amount appropriated for ~~each~~ the fiscal year beginning July 1, 1999, in this subsection, up to $800,000 may be used by the department for routine maintenance needs for the capitol complex.

Sec. 8. 1999 Iowa Acts, chapter 204, section 4, subsection 15, is amended by striking the subsection.

Sec. 9. 1998 Iowa Acts, chapter 1219, section 6, subsection 1, unnumbered paragraphs 3 and 4, as amended and enacted by 1999 Iowa Acts, chapter 204, section 39, are amended to read as follows:

Of the amount appropriated in this subsection, up to $1,250,000 may be used by the department for the purchase, demolition, assessment, and site conditioning of property located ~~at the southwest corner of Lyon street and East Tenth street, together with the contiguous property south of the southwest corner property and the property between East Tenth street and East Eleventh street between Lyon street and Des Moines street, all~~ within the following boundaries: south of interstate 235, north of Grand avenue, east of Pennsylvania avenue, and west of East Fourteenth street in the city of Des Moines.

[1] See chapter 1232, §31 herein

Of the amount appropriated in this subsection, up to $430,000 may be used by the department to complete the infrastructure assessment, notwithstanding section 8.57, subsection 5, paragraph "c".

JUDICIAL BRANCH

Sec. 10. There is appropriated from the rebuild Iowa infrastructure fund to the judicial branch for the fiscal year beginning July 1, 2001, and ending June 30, 2002, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For construction of a new judicial building:

..... $ 10,300,000

The judicial branch is authorized to enter into contracts for the full cost of the planning, design, and construction of a new judicial building for which appropriations are made in this section and in 1998 Iowa Acts, chapter 1223, section 8, and 1999 Iowa Acts, chapter 204, section 6. The state shall not be obligated for costs associated with contracts identified in this paragraph in excess of funds appropriated by the general assembly. Notwithstanding any provision of this Act to the contrary or section 8.33, moneys appropriated in this section that remain unencumbered or unobligated at the close of the fiscal year that begins July 1, 2003, shall revert at the close of that fiscal year. However, if the project for which the moneys are appropriated is completed in an earlier fiscal year, unencumbered or unobligated moneys shall revert at the close of that fiscal year.

Sec. 11. 1998 Iowa Acts, chapter 1219, section 8, is amended to read as follows:

SEC. 8. There is appropriated from the rebuild Iowa infrastructure fund to the judicial department for the fiscal year beginning July 1, 1998, and ending June 30, 1999, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For capital projects at the capitol building:

..... $ 250,000

Notwithstanding section 8.33, unencumbered or unobligated funds remaining on June 30, ~~2000,~~ 2002, from the funds appropriated in this section shall revert to the rebuild Iowa infrastructure fund on August 31, ~~2000~~ 2002.

Sec. 12. 1998 Iowa Acts, chapter 1223, section 8, is amended to read as follows:

SEC. 8. JUDICIAL DEPARTMENT. There is appropriated from the rebuild Iowa infrastructure fund to the judicial department for the fiscal year beginning July 1, 1997, and ending June 30, 1998, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For design and development of a new judicial building:

..... $ 1,700,000

Notwithstanding section 8.33, unencumbered or unobligated funds remaining on June 30, ~~2000,~~ 2003, from the funds appropriated in this section shall revert to the rebuild Iowa infrastructure fund on August 31, ~~2000~~ 2003.

Sec. 13. 1999 Iowa Acts, chapter 204, section 6, unnumbered paragraph 2, is amended to read as follows:

For planning, design, and construction of a new judicial building:

FY 1999-2000 ..... $ 10,000,000

FY 2000-2001 ..... $ ~~10,000,000~~ 8,000,000

DEPARTMENT OF NATURAL RESOURCES

Sec. 14. There is appropriated from the rebuild Iowa infrastructure fund to the department of natural resources for the fiscal year beginning July 1, 2000, and ending June 30,

2001, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For construction of the Elinor Bedell state park and wildlife conservation area, as intended by the general assembly in 1998 Iowa Acts, chapter 1219, section 10:

..... $ 50,000

STATE BOARD OF REGENTS

Sec. 15. There is appropriated from the rebuild Iowa infrastructure fund to the state board of regents for the fiscal period beginning July 1, 2000, and ending June 30, 2003, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. For improvements to Gilman hall at Iowa state university of science and technology, including the replacement of the heating, ventilation, and air conditioning system, replacement of the fume hood exhaust system, and the construction of an addition to house mechanical equipment:

FY 2000-2001 ..... $ 8,500,000
FY 2001-2002 ..... $ 2,500,000
FY 2002-2003 ..... $ 0

2. For continued renovation of the biological sciences facility at the state university of Iowa:

FY 2000-2001 ..... $ 4,400,000
FY 2001-2002 ..... $ 7,300,000
FY 2002-2003 ..... $ 3,000,000

3. For construction of an addition to McCollum science hall at the university of northern Iowa:

FY 2000-2001 ..... $ 2,700,000
FY 2001-2002 ..... $ 5,800,000
FY 2002-2003 ..... $ 8,400,000

4. For planning and design of a new business college building at Iowa state university of science and technology, notwithstanding section 8.57, subsection 5, paragraph "c":

FY 2000-2001 ..... $ 300,000
FY 2001-2002 ..... $ 0
FY 2002-2003 ..... $ 0

5. For improvements to or replacement of the water system at the school for the deaf:

..... $ 250,000

The state board of regents is authorized to enter into contracts for the full cost of carrying out the projects listed in subsections 1 through 3, for which appropriations are made in those subsections. The state shall not be obligated for costs associated with contracts identified in this paragraph in excess of the funds appropriated by the general assembly.

STATE DEPARTMENT OF TRANSPORTATION

Sec. 16. There is appropriated from the rebuild Iowa infrastructure fund to the state department of transportation for the fiscal year beginning July 1, 2000, and ending June 30, 2001, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. For vertical infrastructure improvements at all 10 of the commercial air service airports within the state:

..... $ 1,000,000

One-half of the funds appropriated in this subsection shall be allocated equally between each commercial service airport, 40 percent of the funds shall be allocated based on the percentage that the number of enplaned passengers at each commercial service airport bears to the total number of enplaned passengers in the state during the previous fiscal year, and 10 percent of the funds shall be allocated based on the percentage that the air cargo

tonnage at each commercial service airport bears to the total air cargo tonnage in the state during the previous fiscal year. In order for a commercial service airport to receive funding under this subsection, the airport shall be required to submit applications for funding of specific projects to the department for approval by the state transportation commission.

2. For deposit in an aviation hangar revolving loan fund, as created in this Act, for improvements to and design and construction of hangars at general aviation airports within the state:

..... $ 500,000

OFFICE OF TREASURER OF STATE

Sec. 17. There is appropriated from the rebuild Iowa infrastructure fund to the office of treasurer of state for the fiscal year beginning July 1, 2000, and ending June 30, 2001, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For county fair infrastructure improvements for distribution in accordance with chapter 174 to qualified fairs which belong to the association of Iowa fairs:

..... $ 1,060,000

Sec. 18. There is appropriated from the rebuild Iowa infrastructure fund to the office of the treasurer of state for the designated fiscal years, the following amounts, or so much thereof as is necessary, to be used for the purpose designated:

For deposit in the community attraction and tourism fund:

FY 2001-2002 ..... $ 12,500,000
FY 2002-2003 ..... $ 12,500,000
FY 2003-2004 ..... $ 12,500,000

None of the moneys appropriated in this section shall be used for the development of marketing efforts or promotion of Iowa tourism attractions and events.

COMMISSION OF VETERANS AFFAIRS

Sec. 19. There is appropriated from the rebuild Iowa infrastructure fund to the commission of veterans affairs for the fiscal year beginning July 1, 2000, and ending June 30, 2001, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

To supplement moneys appropriated in prior fiscal years for construction of a new dining hall and food services facility:

..... $ 992,000

Sec. 20. REVERSION. Notwithstanding section 8.33, moneys appropriated in this division of this Act that remain unencumbered or unobligated at the close of the fiscal year that begins July 1, 2003, shall revert at the close of that fiscal year. However, if the projects for which the moneys are appropriated are completed in an earlier fiscal year, unencumbered or unobligated moneys shall revert at the close of that fiscal year.

Sec. 21. EFFECTIVE DATE. The following sections of this division of this Act, being deemed of immediate importance, take effect upon enactment:

1. Section 6, amending 1999 Iowa Acts, chapter 121, sections 11 and 12.
2. Sections 7 and 8, amending 1999 Iowa Acts, chapter 204, section 4, subsections 1 and 15.
3. Section 9, amending 1998 Iowa Acts, chapter 1219, section 6, subsection 1, unnumbered paragraphs 3 and 4, as amended and enacted by 1999 Iowa Acts, chapter 204, section 39.
4. Section 11, amending 1998 Iowa Acts, chapter 1219, section 8.
5. Section 12, amending 1998 Iowa Acts, chapter 1223, section 8.

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* Item veto; see message at end of the Act

DIVISION II
RESTORE THE OUTDOORS PROGRAM
AND ENVIRONMENT FIRST FUND

Sec. 22. NEW SECTION. 8.57A ENVIRONMENT FIRST FUND.

1. An environment first fund is created under the authority of the department of management. The fund shall consist of appropriations made to the fund and transfers of interest, earnings, and moneys from other funds as provided by law. The fund shall be separate from the general fund of the state and the balance in the fund shall not be considered part of the balance of the general fund of the state. However, the fund shall be considered a special account for the purposes of section 8.53, relating to generally accepted accounting principles.

2. **Moneys in the environment first fund are not subject to section 8.33.** Notwithstanding section 12C.7, subsection 2, interest or earnings on moneys in the environment first fund shall be credited to the rebuild Iowa infrastructure fund.

3. Moneys in the fund in a fiscal year shall be used as appropriated by the general assembly for the protection, conservation, enhancement, or improvement of natural resources or the environment.

4. There is appropriated from the rebuild Iowa infrastructure fund for the fiscal year beginning July 1, 2000, and for each fiscal year thereafter, the sum of thirty-five million dollars to the environment first fund, notwithstanding section 8.57, subsection 5, paragraph "c".

Sec. 23. Section 8.58, Code 1999, is amended to read as follows:

8.58 EXEMPTION FROM AUTOMATIC APPLICATION.

To the extent that moneys appropriated under section 8.57 do not result in moneys being credited to the general fund under section 8.55, subsection 2, moneys appropriated under section 8.57 and moneys contained in the cash reserve fund, rebuild Iowa infrastructure fund, environment first fund, and Iowa economic emergency fund shall not be considered in the application of any formula, index, or other statutory triggering mechanism which would affect appropriations, payments, or taxation rates, contrary provisions of the Code notwithstanding.

To the extent that moneys appropriated under section 8.57 do not result in moneys being credited to the general fund under section 8.55, subsection 2, moneys appropriated under section 8.57 and moneys contained in the cash reserve fund, rebuild Iowa infrastructure fund, environment first fund, and Iowa economic emergency fund shall not be considered by an arbitrator or in negotiations under chapter 20.

**Sec. 24. Section 461A.3A, subsection 2, unnumbered paragraph 1, Code 1999, is amended to read as follows:*

*There is appropriated from the rebuild Iowa infrastructure fund for each fiscal year of the fiscal period beginning July 1, 1997, and ending June 30, ~~2001~~ 2004, the sum of three million dollars to the department for use in the restore the outdoors program. Notwithstanding section 8.33, unencumbered or unobligated moneys remaining at the end of a fiscal year shall not revert but shall remain available for expenditure during the following fiscal year for purposes of the restore the outdoors program.**

DEPARTMENT OF AGRICULTURE AND LAND STEWARDSHIP

Sec. 25. There is appropriated from the environment first fund to the department of agriculture and land stewardship for the fiscal year beginning July 1, 2000, and ending June 30, 2001, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

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* Item veto; see message at end of the Act

1. To implement a conservation reserve enhancement program to restore and construct wetlands for the purposes of intercepting tile line runoff, reducing nutrient loss, improving water quality, and enhancing agricultural production practices:
..... $ 1,500,000

2. For implementation of a program that provides multi-objective resource protections for flood control, water quality, erosion control, and natural resource conservation:
..... $ 1,450,000

3. To initiate a statewide voluntary farm management demonstration program to demonstrate the effectiveness and adaptability of emerging practices in agronomy that protect water resources and provide other environmental benefits:
..... $ 850,000

4. For assisting farm operators in applying for project grants associated with the statewide voluntary farm management demonstration program:
..... $ 50,000

5. For assistance in writing plans for the reclamation of lands and water which were mined for coal or affected by mining processes:
..... $ 50,000

*6. *For deposit in the alternative drainage system assistance fund created in section 159.29A to be used for purposes of supporting the alternative drainage system assistance program as provided in section 159.29B:*
..... *$ 1,300,000*

Of the amount appropriated in this section, $300,000 shall be allocated to drainage district 176 to provide cost-share assistance for closing agricultural drainage wells and constructing alternative drainage systems in order to assist in raising the level of cost-share payments to 75 percent of the cost of the projects.

*It is the intent of the general assembly that a portion of the funds appropriated in this subsection be used to provide adequate assistance for closing agricultural drainage wells and constructing alternative drainage systems in Humboldt county.**

7. To provide financial assistance for the establishment of permanent soil and water conservation practices:
..... $ 2,000,000

a. Not more than 5 percent of the moneys appropriated in this subsection may be allocated for cost-sharing to abate complaints filed under section 161A.47.

b. Of the moneys appropriated in this subsection, 5 percent shall be allocated for financial incentives to establish practices to protect watersheds above publicly owned lakes of the state from soil erosion and sediment as provided in section 161A.73.

c. Not more than 30 percent of a district's allocation of moneys as financial incentives may be provided for the purpose of establishing management practices to control soil erosion on land that is row-cropped, including but not limited to no-till planting, ridge-till planting, contouring, and contour strip-cropping as provided in section 161A.73.

d. The state soil conservation committee created in section 161A.4 may allocate moneys appropriated in this subsection to conduct research and demonstration projects to promote conservation tillage and nonpoint source pollution control practices.

e. The financial incentive payments may be used in combination with department of natural resources moneys.

8. To encourage and assist farmers in enrolling in the continuous sign-up federal conservation reserve program and work with them to enhance their revegetation efforts to improve water quality and habitat:
..... $ 1,500,000

DEPARTMENT OF ECONOMIC DEVELOPMENT

Sec. 26. There is appropriated from the environment first fund to the department of economic development for the fiscal year beginning July 1, 2000, and ending June 30, 2001,

* Item veto; see message at end of the Act

the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For deposit in the brownfield redevelopment fund to provide assistance under the brownfield redevelopment program, if the fund is created by the Seventy-eighth General Assembly, Second Session:

..... $ 3,000,000

DEPARTMENT OF NATURAL RESOURCES

Sec. 27. There is appropriated from the environment first fund to the department of natural resources for the fiscal year beginning July 1, 2000, and ending June 30, 2001, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. To establish a program to assist rural homeowners in improving on-site wastewater systems:

..... $ 600,000

2. To provide local watershed managers with geographic information system data for their use in developing, monitoring, and displaying results of their watershed work:

..... $ 195,000

3. For continuing the establishment and operation of water quality monitoring stations:

..... $ 1,950,000

4. To develop a program to support local volunteer management efforts in water quality programs:

..... $ 70,000

5. To establish and implement improved water quality planning, standards, and assessment:

..... $ 372,000

6. For contracting to assist department staff with the review of national pollutant discharge elimination system permits:

..... $ 250,000

7. To expand the floodplain protection education to better inform local officials that make decisions with regard to floodplain management:

..... $ 200,000

8. To identify an effective and efficient method of developing a total maximum daily load program:

..... $ 153,000

9. For the dredging of lakes, including necessary preparation for dredging, in accordance with the department's classification of Iowa lakes restoration report:

..... $ 2,900,000

a. Of the amount appropriated in this subsection, up to $200,000 may be used by the department to provide assistance to qualified applicants for purposes of financing capital improvements to a natural or constructed lake or to a portion of a river including but not limited to dredging, installation or repair of erosion control measures, and land acquisition. To qualify for assistance, an applicant must be a nonprofit organization based in the community where the lake or portion of the river is located which is active in sponsoring improvements to the lake or portion of the river and is capable of managing or overseeing the improvements or be a governmental body. Assistance shall not be provided to construct a new lake. Notwithstanding any contrary provision of this subsection, the department may consider grants for portions of any rivers or for any public lakes.

b. To qualify for assistance under paragraph "a", an applicant must demonstrate that existing or planned infrastructure and practices are capable of ensuring long-term benefits to the lake or river. An applicant must also show that each dollar of assistance will be matched by one dollar contributed by a source other than the state.

10. For a community-based grant distribution program to provide funding for the planting of trees throughout the state:

..... $ 250,000

11. For a contribution towards the development of the Lewis and Clark rural water system:
..... $ 60,000

12. For continuation of the waste tire abatement program:
..... $ 500,000

Of the amount appropriated in this subsection, up to $50,000 may be used by the department for administration costs of the program.

13. For recreational grants to be used for the restoration or construction of recreational complexes or facilities under the recreational grant matching program:
..... $ 3,000,000

Matching grants awarded from the funds appropriated in this subsection shall be awarded on a matching basis of one dollar for every two dollars the applicant had raised.

The department shall give special consideration to recreational complex or facility projects which involve public and private sector participation.

14. For purposes of funding capital projects for the purposes specified in section 452A.79, and for expenditures for the local cost share grants to be used for capital expenditures to local governmental units for boating accessibility:
..... $ 2,300,000

If the amount appropriated in this subsection exceeds the amount of marine fuel tax receipts deposited into the rebuild Iowa infrastructure fund for the fiscal year ending June 30, 2001, the difference between the amount appropriated in this subsection from the environment first fund and the actual marine fuel tax receipts deposited into the rebuild Iowa infrastructure fund is appropriated to the rebuild Iowa infrastructure fund from the accumulated balance of marine fuel tax receipts in the general fund of the state which is tracked by the department of management pursuant to section 8.60, subsection 14.

*Sec. 28. REVERSION. Notwithstanding section 8.33, moneys appropriated in this division of this Act shall not revert on the close of the fiscal year for which they were appropriated, but shall remain available for expenditure for subsequent fiscal years or until the close of the fiscal year beginning July 1, 2003, or until the project for which the appropriation was made is completed, whichever is the earlier.**

DIVISION III
RESOURCES ENHANCEMENT AND PROTECTION FUND

Sec. 29. Notwithstanding the amount of the standing appropriation from the general fund of the state under section 455A.18, subsection 3, there is appropriated from the environment first fund to the Iowa resources enhancement and protection fund, in lieu of the appropriation made in section 455A.18, for the fiscal year beginning July 1, 2000, and ending June 30, 2001, the following amount, to be allocated as provided in section 455A.19:
..... $ 10,500,000

DIVISION IV
MISCELLANEOUS CODE LANGUAGE CHANGES
AND OTHER PROVISIONS

Sec. 30. Section 8.57, subsection 5, paragraph e, Code 1999, is amended to read as follows:

e. Notwithstanding provisions to the contrary in sections 99D.17 and 99F.11, for the fiscal ~~years beginning July 1, 1995, and~~ year beginning July 1, ~~1996~~ 2000, and for each fiscal year thereafter, not more than a total of sixty million dollars~~; and for each fiscal year thereafter;~~ shall be deposited in the general fund of the state in any fiscal year pursuant to sections 99D.17 and 99F.11. The next fifteen million dollars of the moneys directed to be deposited in the general fund of the state in a fiscal year pursuant to sections 99D.17 and 99F.11 shall be deposited in the vision Iowa fund created in section 12.72 for the fiscal year beginning July 1, 2000, and for each fiscal year through the fiscal year beginning July 1,

* Item veto; see message at end of the Act

2019. The next five million dollars of the moneys directed to be deposited in the general fund of the state in a fiscal year pursuant to sections 99D.17 and 99F.11 shall be deposited in the school infrastructure fund created in section 12.82 for the fiscal year beginning July 1, 2000, and for each fiscal year thereafter until the principal and interest on all bonds issued by the treasurer of state pursuant to section 12.81 are paid, as determined by the treasurer of state. The total moneys in excess of the moneys deposited in the general fund of the state, the vision Iowa fund, and the school infrastructure fund in a fiscal year shall be deposited in the rebuild Iowa infrastructure fund and shall be used as provided in this section, notwithstanding section 8.60.

Sec. 31. NEW SECTION. 12.72A VISION IOWA FUND MONEYS — ADMINISTRATIVE COSTS.

During the term of the vision Iowa program established in section 15F.302, one hundred thousand dollars of the moneys deposited each fiscal year in the vision Iowa fund and appropriated for the vision Iowa program shall be allocated each fiscal year to the department of economic development for administrative costs incurred by the department for purposes of administering the vision Iowa program.

Sec. 32. NEW SECTION. 12.82A SCHOOL INFRASTRUCTURE FUND MONEYS — STATE FIRE MARSHAL.

During the term of the school infrastructure program established in section 292.2, up to fifty thousand dollars of the moneys deposited each fiscal year in the school infrastructure fund shall be allocated each fiscal year to the department of public safety for the use of the state fire marshal. The funds shall be used by the state fire marshal solely for the purpose of retaining an architect or architectural firm to evaluate structures for which school infrastructure program grant applications are made, to consult with school district representatives, to review construction drawings and blueprints, and to perform related duties at the direction of the state fire marshal to ensure the best possible use of moneys received by a school district under the school infrastructure program. The state fire marshal shall provide for the review of plans, drawings, and blueprints in a timely manner.

**Sec. 33. Section 18.3, subsection 7, Code 1999, is amended by adding the following new unnumbered paragraph:*

*NEW UNNUMBERED PARAGRAPH. If the department intends to bill a state agency for a service provided by the department under this subsection, the department shall notify the state agency of the department's intention and of the costs of providing the service prior to providing the service. The state agency may request that all or a part of the service not be provided by the department if all or a part of the service will be provided by a person employed by the state agency or a person under contract with the state. An action by the department or a state agency related to the provision of, billing for, or request to not perform a service under this subsection, is subject to review by the executive council upon complaint from any state agency adversely affected.**

Sec. 34. NEW SECTION. 18A.6 CAPITOL COMPLEX PROJECTS.

All capital projects on the capitol complex shall be planned, approved, and funded only after considering the guiding principles enunciated in any capitol complex master plan adopted by the commission on or after January 1, 2000. At a minimum, the extent to which the proposed capital project does all of the following shall be considered:

1. Preserves and enhances the dignity, beauty, and architectural integrity of the capitol building, other state office buildings, and the capitol grounds.
2. Protects and enhances the public open spaces on the capitol complex when deemed necessary for public use and enjoyment.
3. Protects the most scenic public views to and from the capitol building.
4. Recognizes the diversity of adjacent neighborhoods and reinforces the connection of the capitol complex to its neighbors and the city of Des Moines.

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* Item veto; see message at end of the Act

5. Accommodates pedestrian and motorized traffic that achieves appropriate public accessibility.

This section applies only to projects for which a construction site was not determined prior to the effective date of this Act.

Sec. 35. NEW SECTION. 330.2 AVIATION HANGAR REVOLVING LOAN FUND.

An aviation hangar revolving loan fund is established in the office of the treasurer of state under the control of the state department of transportation. Moneys in the fund are appropriated for the purposes set forth in this section. Moneys in the fund shall be expended for loans to provide assistance for the design, construction, or improvement of hangars at general aviation airports in the state. The department shall adopt rules to administer a program for the granting and administration of loans under this section. The department may enter into agreements with general aviation airports for carrying out the purposes of this section. Moneys received as loan repayments shall be credited to the aviation hangar revolving loan fund. Notwithstanding section 8.33, moneys in the aviation hangar revolving loan fund shall not revert to any other fund but shall remain available indefinitely for expenditure under this section.

Sec. 36. 1999 Iowa Acts, chapter 204, section 17, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Notwithstanding section 8.33, moneys appropriated for noncapital expenditures in this division of this Act shall not revert on the close of the fiscal year for which they were appropriated, but shall remain available for expenditure for subsequent fiscal years or until the close of the fiscal year beginning July 1, 2003, or until the project for which the appropriation was made is completed, whichever is the earlier.

Sec. 37. VISION IOWA PROGRAM — FTE AUTHORIZATION. The department of economic development is authorized one additional FTE above those otherwise authorized in 2000 Iowa Acts, Senate File 2428,[2] for purposes of administrative duties associated with the vision Iowa program created in section 15F.302.

Sec. 38. CONTINGENT EFFECTIVENESS. Sections 18, 30, 31, 32, and 37 of this Act take effect only if 2000 Iowa Acts, Senate File 2447,[3] is enacted by the General Assembly.

Sec. 39. EFFECTIVE DATE. This division of this Act, being deemed of immediate importance, takes effect upon enactment.

Approved May 11, 2000, with exceptions noted.

THOMAS J. VILSACK, *Governor*

Dear Mr. Secretary:

I hereby transmit Senate File 2453, an Act relating to and making appropriations from the rebuild Iowa infrastructure fund to state departments and agencies, including the department of natural resources, the department of agriculture and land stewardship, department for the blind, the department of corrections, the department of cultural affairs, the department of economic development, the department of general services, the judicial branch, the department of public safety, the state board of regents, the state department of transportation, the office of treasurer of state, and the commission of veterans affairs, creating an environment first fund and making appropriations from that fund for environmental purposes, making related Code language changes, providing for contingent effectiveness, and providing effective dates.

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[2] Chapter 1230 herein

[3] Chapter 1174 herein

I appreciate the efforts of Republicans and Democrats in allocating approximately $11.2 million toward the creation of the Clean Water Initiative. This investment will create a comprehensive set of initiatives aimed at improving Iowa's water resources. The package includes the establishment of buffer strips, efforts to restore and construct wetlands, and expansion of water quality monitoring and watershed programs.

These projects not only provide cleaner and safer water, but they will protect our natural resources, protect our public infrastructure — like roads and bridges — from flood damage, and protect our aquatic wildlife. Most importantly, we need to make sure that our commitment to clean, safe drinking water does not end this year.

For these reasons, Senate File 2453 is, therefore, approved on this date with the following exceptions, which I hereby disapprove.

I am unable to approve the designated portion of Section 18. This item prohibits any of the community attraction and tourism funds from being expended for development and promotional purposes. The Legislature specifically authorized the use of these funds for these purposes in last year's infrastructure appropriations bill. I believe it is appropriate to allow the new Vision Iowa Board to determine if they want to continue that practice.

I am unable to approve the designated portion of Section 22, subsection 2. This item would carry unused balances of the environment first fund appropriation to the subsequent fiscal year. Because the Legislature has overspent from the infrastructure budget this year, it is necessary to develop a mechanism to balance it. The effect of this item veto, coupled with those below, will be to allow unspent resources in the environment first fund to return to the rebuild Iowa infrastructure fund at the end of the fiscal year. This will help correct the Legislature's infrastructure budget deficit.

I am unable to approve Section 24 in its entirety. This item would extend the restore the outdoors program through fiscal year 2004. The restore the outdoors program is a statutory appropriation that is already funded in the coming fiscal year. It makes more sense to deal with extending the program next year, when all other FY 2002 budget issues are being discussed.

I am unable to approve Section 25, subsection 6 in its entirety. This item appropriates $1,300,000 for the agricultural drainage well system assistance program. This is an important program, and I regret that the Legislature's overspending requires me to make an item veto of these funds. However, there is currently $5.5 million available from previous appropriations for this assistance which will sustain the fund for FY 2001. If the Legislature will submit a properly balanced infrastructure budget next year, I would be willing to restore funding for this purpose.

I am unable to approve Section 28 in its entirety. This item would carry unused balances of appropriations made from the environment first fund to the subsequent fiscal year. Once again, this is necessary to ensure that the infrastructure budget deficit presented to me by the Legislature is eliminated.

I am unable to approve Section 33 in its entirety. This item relates to the billing of services by the department of general services. This is an executive branch function that should not be legislatively imposed.

For the above reasons, I hereby respectfully approve Senate File 2453 with the exceptions noted above.

Sincerely,
THOMAS J. VILSACK, *Governor*

CHAPTER 1226

APPROPRIATIONS — STATE GOVERNMENT TECHNOLOGY AND OPERATIONS

S.F. 2433

AN ACT relating to state government technology and operations, by making and relating to appropriations to the Iowa communications network for the support of certain Part III users, making appropriations to various entities for other technology-related purposes, providing for the procurement of information technology, providing for the use of the network, and providing an effective date.

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

Section 1. TREASURER OF STATE. There is appropriated from the general fund of the state to the treasurer of state for the fiscal year beginning July 1, 2000, and ending June 30, 2001, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For debt service:

..... $ 12,860,000

Funds appropriated in this section shall be deposited in a separate fund established in the office of the treasurer of state, to be used solely for debt service for the Iowa communications network. The Iowa telecommunications and technology commission shall certify to the treasurer of state when a debt service payment is due, and upon receipt of the certification the treasurer shall make the payment. The commission shall pay any additional amount due from funds deposited in the Iowa communications network fund.

Sec. 2. IOWA COMMUNICATIONS NETWORK OPERATIONS.

1. There is appropriated from the general fund of the state to the Iowa telecommunications and technology commission for the fiscal year beginning July 1, 2000, and ending June 30, 2001, the following amount, or so much thereof as is necessary, to be used for the purposes designated in this subsection:

For operations of the network consistent with chapter 8D and for the following full-time equivalent positions:

..... $ 3,181,920

..... FTEs 104.00

2. Notwithstanding section 8.57, subsection 5, paragraph "c", there is appropriated from the rebuild Iowa infrastructure fund to the Iowa telecommunications and technology commission for the fiscal year beginning July 1, 2000, and ending June 30, 2001, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

To be used solely for maintenance and lease costs associated with Part III connections:

..... $ 2,727,004

3. Notwithstanding section 8.33 or 8.39, moneys appropriated in this section which remain unobligated or unexpended at the close of the fiscal year shall not revert to the general fund of the state but shall remain available for the purposes designated in the succeeding fiscal year, and shall not be transferred to any other program.

4. a. It is the intent of the general assembly that the Iowa telecommunications and technology commission annually review the hourly rates established, as provided in section 8D.3, subsection 3, paragraph "i", consistent with this paragraph. Such rates shall be established in a manner to minimize any subsidy provided through state general fund appropriations.

b. Notwithstanding paragraph "a", the general assembly declares its support for, and that it is the intent of the general assembly to continue, subsidization of video rates charged to libraries, public or nonpublic schools for grades kindergarten through twelve, private universities and colleges, community colleges, and institutions under the control of the state

board of regents. Except for original debt service, the Iowa telecommunications and technology commission shall develop a long-term plan for establishing rates that will eliminate, by June 30, 2007, the need for legislatively appropriated funds to be used for subsidization of network costs for authorized users other than the network costs associated with video rates charged to public or nonpublic schools for grades kindergarten through twelve, private universities and colleges, community colleges, and institutions under the control of the state board of regents.

5. Notwithstanding section 18.6, subsection 1, for the purposes of any agreement entered into pursuant to this subsection only, it is the intent of the general assembly that the Iowa telecommunications and technology commission utilize a process seeking competitive applications for a demonstration project, and enter into an agreement for a demonstration project to provide voice service for state government over internet protocol. Such agreement for a demonstration project may be entered into with a vendor which agrees to provide all necessary equipment associated with the project at no cost to the state. The Iowa telecommunications and technology commission shall not enter into an agreement for the actual provision of such voice service without utilizing a competitive application process. The vendor and the commission shall submit a written report regarding the quality of the service associated with the demonstration project no later than January 15, 2001.

6. The department of economic development and the Iowa utilities board shall jointly develop a written report with recommendations to ensure that high-speed broadband internet access is available to rural areas of the state where such access is not currently available. The written report shall be submitted to the legislative oversight committee of the legislative council by no later than October 1, 2000.

Sec. 3. PUBLIC BROADCASTING. There is appropriated from the general fund of the state to the public broadcasting division of the department of education for the fiscal year beginning July 1, 2000, and ending June 30, 2001, the following amount, or so much thereof as is necessary, to be used for the purposes designated in subsections 1 and 2 and for the following full-time equivalent positions:

.....	$	2,170,595
.....	FTEs	9.00

1. Of the amount appropriated in this section, $478,403 shall be expended by the public broadcasting division of the department of education to provide support for functions related to the network, including but not limited to the following functions: development of distance learning applications; development of a central information source on the internet relating to educational uses of the network; second-line technical support for network sites; testing and initializing sites onto the network; and coordinating the work of the education telecommunications council.

2. Of the amount appropriated in this section, $1,692,192 shall be allocated by the public broadcasting division of the department of education to the regional telecommunications councils established in section 8D.5. The regional telecommunications councils shall use the funds to provide technical assistance for network classrooms, planning and troubleshooting for local area networks, scheduling of video sites, and other related support activities.

Sec. 4. DEPARTMENT OF GENERAL SERVICES. There is appropriated from the general fund of the state to the division of information technology services of the department of general services for the fiscal year beginning July 1, 2000, and ending June 30, 2001, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For the purpose of providing information technology services to state agencies and for the following full-time equivalent positions:

.....	$	4,563,943
.....	FTEs	131.61

The division of information technology services shall not increase any fees or charges to other state agencies for services provided to such state agencies by the division, unless such increase in fees or charges is first submitted to, and approved by, the department of management. It is the intent of the general assembly that the division not increase fees for the purpose of generating revenue to offset the difference in the amount of the appropriation contained in this section and the amount of the appropriation initially requested for the division by the department of general services.

Sec. 5. POOLED TECHNOLOGY ACCOUNT.

1. a. A pooled technology account is established in the office of the treasurer of state under the control of the division of information technology services of the department of general services and shall be used for the purpose of supporting various technology programs as provided in this section.

b. Notwithstanding the distribution formula contained in section 8.62 for an operational appropriation which remains unexpended or unencumbered for the fiscal year beginning July 1, 1999, 75 percent of the unexpended or unencumbered moneys subject to section 8.62 are appropriated to the pooled technology account. The remaining 25 percent of such moneys shall remain with the entity to which the operational appropriation was made. Notwithstanding section 8.33, for an appropriation other than an operational appropriation as provided in section 8.62 which remains unencumbered for the fiscal year beginning July 1, 1999, 100 percent of the unexpended or unencumbered moneys are appropriated to the pooled technology account.

Notwithstanding this paragraph, the first $7,500,000 subject to reversion and appropriation to the pooled technology account under this paragraph shall be deposited in the general fund to be used for balancing the state's budget for the fiscal year beginning July 1, 2000, and ending June 30, 2001. However, the amount to be deposited in the general fund pursuant to this unnumbered paragraph shall be reduced by an amount equal to the amount of revenue received by the state for deposit in the general fund of the state that exceeds the most recent estimate of the revenue estimating conference created in section 8.22A for the fiscal year beginning July 1, 1999, and ending June 30, 2000. The amount of the reduction in revenue to be deposited in the general fund as determined under this unnumbered paragraph shall be deposited in the pooled technology account.

2. Moneys in the pooled technology account are allocated, to the extent available, in the descending priority order for use during the fiscal year beginning July 1, 2000, and ending June 30, 2001, as follows:

a. The first $1,500,000 shall be allocated to the department of education for purposes of making technology available to students of accredited nonpublic schools in accordance with section 27 of this Act.

b. The next $1,000,000 shall be allocated to the university of northern Iowa for developing a twenty-first century learning initiative. The university of northern Iowa shall consult with the division of information technology services of the department of general services and the department of education in developing this initiative.

c. The next $3,500,000 shall be allocated to the Iowa telecommunications and technology commission for continued buildout of asynchronous transfer mode technology for the network.

d. The next $200,000 shall be allocated to the department of management for developing budget system programs for township trustees.

e. The next $21,000,000 shall be allocated to the division of information technology services of the department of general services only for the projects designated in this paragraph as follows:

(1) A process project office for the division of information technology services of the department of general services.

(2) An electronic data collection, management, and reporting associated with the temporary assistance for needy families (TANF) welfare reform program of the department of human services.

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* Item veto; see message at end of the Act

(3) A child support recovery unit system for the department of human services.

(4) A corrections offender network for the department of corrections.

(5) The development of a resource house for the department of workforce development.

(6) A data warehouse for the division of criminal and juvenile justice planning of the department of human rights.

(7) Participation in the field automation and information management system (FAIM) by the department of agriculture and land stewardship.

(8) Gasoline measurement testing equipment for the department of agriculture and land stewardship.

(9) An electronic benefits transfer system for the department of human services.

(10) An electronic database directory of all health care and support services available to senior citizens for the department of elder affairs, as required under the senior living program Act, as enacted in Senate File 2193,[1] and for other costs associated with the implementation of that program.

(11) The costs associated with filings under the Uniform Commercial Code if House File 2513[2] is enacted and incurred by the secretary of state.

(12) The conversion to digital television broadcasts by the public broadcasting division of the department of education.

(13) The continued buildout of asynchronous transfer mode technology for the Iowa communications network by the Iowa telecommunications and technology commission.

(14) An integrated institutional computer system for the veterans home of the department of veterans affairs.

(15) An electronic data warehouse for the department of human services.

(16) Establishment of an Iowa communications network room in the state historical building for the department of cultural affairs.

(17) An electronic data interchange for the department of education.

(18) The development and implementation of an electronic professional license renewal system for the division of information technology services of the department of general services.

(19) The development and implementation of an electronic system for vital records for the Iowa department of public health.

(20) The telefiling of tax returns for the department of revenue and finance.

(21) The development and implementation of an on-line system for issuing environmental permits for the department of natural resources.

(22) Reengineering projects for the division of information technology services of the department of general services.

(23) For budget system redesign to be completed by the department of management.

(24) The development and implementation of information technology security by the division of information technology services of the department of general services.

3. A department or agency receiving an appropriation under subsection 2 shall consult with the division of information technology services in the department of general services regarding any technology purchase, lease, or contract, prior to making a purchase or entering into a lease or contract.

4. Effective July 1, 2001, the division of information technology in the department of general services shall not deposit any additional moneys into the pooled technology account, unless reauthorized to do so by the general assembly during the 2001 regular session. Funds allocated to a project pursuant to this section which are encumbered prior to July 1, 2001, may be spent for the specified purpose as provided in this Act. Funds which are allocated but unencumbered as of July 1, 2001, shall revert to the general fund.

5. The department of management, in cooperation with the division of information technology services of the department of general services, shall develop a standard budget request form for technology or business reengineering projects. A department requesting funding for projects which will cost more than $100,000 shall use the request form. The

[1] Chapter 1004 herein

[2] Chapter 1149 herein

form shall require consistent reporting criteria including, but not limited to, project description, project goals, project performance measures, return on investment, cost, time frame, funding sources, and customer base.

Sec. 6. FUNDING FOR IOWACCESS.

1. Notwithstanding section 321A.3, subsection 1, for the fiscal year beginning July 1, 2000, and ending June 30, 2001, the first $1,000,000 collected and transferred by the department of transportation to the treasurer of state with respect to the fees for transactions involving the furnishing of a certified abstract of a vehicle operating record under section 321A.3, subsection 1, shall be transferred to the IowAccess revolving fund created in section 18.187 and administered by the division of information technology services of the department of general services for the purposes of developing, implementing, maintaining, and expanding electronic access to government records in accordance with the requirements set forth in chapter 18, division VII.

2. It is the intent of the general assembly that all fees collected with respect to transactions involving IowAccess shall be deposited in the IowAccess revolving fund created in section 18.187 and shall be used only for the support of IowAccess projects.

Sec. 7. Section 14B.102, subsection 3, 2000 Iowa Acts, Senate File 2395,[3] if enacted, is amended by striking the subsection and inserting in lieu thereof the following:

3. SERVICE CHARGES. The department shall render a statement to a participating agency or other governmental entity for a reasonable and necessary amount for information technology provided by the department to such agency or entity. An amount indicated on a statement rendered to a participating agency or other governmental entity shall be paid by such agency or entity in a manner determined by the department of revenue and finance. Amounts charged and paid pursuant to this subsection shall be deposited in the operations revolving fund created in section 14B.102A.

Sec. 8. 2000 Iowa Acts, Senate File 2395,[4] if enacted, is amended by adding the following new section:

SEC. __. NEW SECTION. 14B.102A OPERATIONS REVOLVING FUND.

An operations revolving fund is created in the state treasury. The operations revolving fund shall be administered by the department and shall consist of moneys collected by the department as fees, moneys appropriated by the general assembly, and any other moneys obtained or accepted by the department for deposit in the revolving fund. The proceeds of the revolving fund are appropriated to and shall be used by the department for the operations of the department consistent with this chapter. The department shall submit an annual report not later than January 31, to the members of the general assembly and the legislative fiscal bureau, of the activities funded by and expenditures made from the revolving fund during the preceding fiscal year. Section 8.33 does not apply to any moneys in the revolving fund and, notwithstanding section 12C.7, subsection 2, earnings or interest on moneys deposited in the revolving fund shall be credited to the revolving fund.

Sec. 9. Section 18.183, subsections 1 and 2, Code Supplement 1999, are amended to read as follows:

1. The government agency that is the lawful custodian of a public record shall be responsible for determining whether a record is required by state statute to be confidential. The transmission of a record by a government agency by use of electronic means established, maintained, or managed by the ~~division of information technology services~~ department shall not constitute a transfer of the legal custody of the record from the individual government agency to the ~~division of information technology services~~ department or to any other person or entity.

2. The ~~division of information technology services~~ department shall not have authority to determine whether an individual government agency should automate records of which the individual government agency is the lawful custodian. However, the ~~division~~ department

[3] Chapter 1141, §3 herein
[4] Chapter 1141 herein

may encourage governmental agencies to implement electronic access to government records.

Sec. 10. Section 18.184, Code 1999, is amended to read as follows:

18.184 FINANCIAL TRANSACTIONS.

1. The ~~division of information technology services~~ department shall collect moneys paid to participating governmental entities from persons who complete an electronic financial transaction with the governmental entity by accessing ~~the~~ IowAccess ~~network~~. The moneys may include all of the following:

a. Fees required to obtain an electronic public record as provided in section 22.3A.

b. Fees required to process an application or file a document, including but not limited to fees required to obtain a license issued by a licensing authority.

c. Moneys owed to a governmental entity by a person accessing ~~the~~ IowAccess ~~network~~ in order to satisfy a liability arising from the operation of law, including the payment of assessments, taxes, fines, and civil penalties.

2. Moneys transferred using ~~the~~ IowAccess ~~network~~ may include amounts owed by a governmental entity to a person accessing ~~the~~ IowAccess ~~network~~ in order to satisfy a liability of the governmental entity. The moneys may include the payment of tax refunds, and the disbursement of support payments as defined in section 252D.16 or 598.1 as required for orders issued pursuant to section 252B.14.

3. The ~~division of information technology services~~ department shall serve as the agent of the governmental entity in collecting moneys for receipt by governmental entities. The moneys shall be transferred to governmental entities directly or to the treasurer of state for disbursement to governmental entities as required by the treasurer of state in cooperation with the auditor of state.

4. In addition to other forms of payment, credit cards shall be accepted in payment for moneys owed to a governmental entity as provided in this section, according to rules which shall be adopted by the treasurer of state. The fees to be charged shall not exceed those permitted by statute. A governmental entity may adjust its fees to reflect the cost of processing as determined by the treasurer of state. The discount charged by the credit card issuer may be included in determining the fees to be paid for completing a financial transaction under this section by using a credit card.

Sec. 11. Section 18.185, Code 1999, is amended to read as follows:

18.185 AUDITS REQUIRED.

A technology audit of the electronic transmission system by which government records are transmitted electronically to the public shall be conducted not less than once annually for the purpose of determining that government records and other electronic data are not misappropriated or misused by the ~~division of information technology services~~ department or a contractor of the ~~division~~ department. A financial audit shall be conducted not less than once annually to determine the financial condition of the ~~division of information technology services~~ department and to make other relevant inquiries.

Sec. 12. Section 18.187, Code Supplement 1999, is amended to read as follows:

18.187 IOWACCESS REVOLVING FUND.

An IowAccess revolving fund is created in the state treasury. The revolving fund shall be administered by the ~~division~~ department and shall consist of moneys collected by the ~~division~~ department as fees, moneys appropriated by the general assembly, and any other moneys obtained or accepted by the ~~division~~ department for deposit in the revolving fund. The proceeds of the revolving fund are appropriated to and shall be used by the ~~division~~ department to maintain, develop, operate, and expand ~~the~~ IowAccess ~~network~~ consistent with this ~~chapter~~ subchapter. The ~~division~~ department shall submit an annual report not later than January 31, to the members of the general assembly and the legislative fiscal bureau, of the activities funded by and expenditures made from the revolving fund during the preceding fiscal year. Section 8.33 does not apply to any moneys in the revolving fund and,

notwithstanding section 12C.7, subsection 2, earnings or interest on moneys deposited in the revolving fund shall be credited to the revolving fund.

Sec. 13. Section 455G.3, subsection 3, paragraph e, Code Supplement 1999, is amended by striking the paragraph.

Sec. 14. Section 455G.6, subsection 17, Code Supplement 1999, is amended by striking the subsection.

Sec. 15. Section 455G.9, subsection 1, Code Supplement 1999, is amended by adding the following new paragraph:

NEW PARAGRAPH. k. Corrective action in response to a high risk condition caused by a release from an underground storage tank located on a site for which the department, after January 31, 1997, has issued a no further action certificate under section 455B.474. As a condition of receiving benefits under this paragraph, the department must determine that the condition necessitating the corrective action was not a result of a release that occurred after the issuance of the no further action certificate, and that the site qualified for remedial benefits under this section prior to the issuance of the no further action certificate. No more than one hundred thousand dollars per site may be used for the costs of a corrective action under this paragraph. This paragraph does not confer a legal right on an owner or operator of petroleum-contaminated property or on any other person to receive benefits under this paragraph.

Sec. 16. Notwithstanding 1997 Iowa Acts, chapter 210, section 10, subsection 1, paragraph "f", any moneys appropriated to the reversion incentive program fund established in 1997 Iowa Acts, chapter 210, section 10, which remain unobligated or unexpended on the effective date of this section of this Act shall be transferred to the pooled technology account established in section 5 of this Act.

Sec. 17. 1998 Iowa Acts, chapter 1224, section 7, subsection 2, paragraph j, is amended to read as follows:

j. To the department of revenue and finance for a remittance processing system:

..... $ 1,500,000

Notwithstanding section 8.33, moneys allocated to the department of revenue and finance in this paragraph "j" which remain unobligated or unexpended at the close of the fiscal year shall not revert but shall remain available for expenditure for the purpose for which allocated in this paragraph "j" for the fiscal year beginning July 1, 2000, and ending June 30, 2001.

Sec. 18. 1998 Iowa Acts, chapter 1224, section 7, subsection 2, paragraph r, as amended by 1999 Iowa Acts, chapter 207, section 18, is amended to read as follows:

r. To the department of general services for a purchasing system:

..... $ 2,500,000

Notwithstanding section 8.33, moneys allocated to the department of general services in this paragraph "r" which remain unobligated or unexpended ~~at the close of the fiscal year~~ on the effective date of this section of this Act shall ~~not revert but shall remain available for the purpose designated in this paragraph "r" for the fiscal year beginning July 1, 1999, and ending June 30, 2000~~ be transferred to the pooled technology account established in section 5 of this Act.

Sec. 19. 1999 Iowa Acts, chapter 196, section 1, is amended to read as follows:

SECTION 1. DEPARTMENT OF GENERAL SERVICES — EMBEDDED CHIPS. There is appropriated from the rebuild Iowa infrastructure fund to the division of information technology services of the department of general services for the fiscal year beginning July 1, 1998, and ending June 30, 1999, to supplement the moneys in the reversion incentive program fund as provided in 1997 Iowa Acts, chapter 210, section 10, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For the replacement of noncompliant year 2000 embedded chips in the technology and equipment of state departments, notwithstanding section 8.57, subsection 5, paragraph "c":
..... $ 2,435,000

Moneys appropriated in this section shall be deposited into the reversion incentive program fund created pursuant to 1997 Iowa Acts, chapter 210, section 10.

Notwithstanding section 8.33, moneys appropriated in this section which remain unencumbered or unobligated ~~at the close of the fiscal year~~ on the effective date of this section of this Act shall ~~not revert but shall remain available for expenditure for the purpose designated until the close of the fiscal year beginning July 1, 2000, and any unobligated or unencumbered moneys remaining on that date shall be credited to the general fund of the state~~ be transferred to the pooled technology account established in section 5 of this Act.

Sec. 20. 1999 Iowa Acts, chapter 207, section 5, subsection 3, paragraphs d, e, g, i, and l, are amended to read as follows:

d. To the department of human services for a welfare reform system (TANF):
..... $ 742,555

Notwithstanding section 8.33, moneys allocated to the department of human services in this paragraph "d" which remain unobligated or unexpended at the close of the fiscal year shall not revert but shall remain available for the purpose designated for the fiscal year beginning July 1, 2000, and ending June 30, 2001.

e. To the department of human services for a child support recovery project:
..... $ 1,131,976

Notwithstanding section 8.33, moneys allocated to the department of human services in this paragraph "e" which remain unobligated or unexpended at the close of the fiscal year shall not revert but shall remain available for the purpose designated for the fiscal year beginning July 1, 2000, and ending June 30, 2001.

g. To the department of education for electronic data exchange (EASIER):
..... $ 500,000

Notwithstanding section 8.33, moneys allocated to the department of education in this paragraph "g" which remain unobligated or unexpended at the close of the fiscal year shall not revert but shall remain available for the purpose designated for the fiscal year beginning July 1, 2000, and ending June 30, 2001.

i. To the division of information technology services in the department of general services for reengineering projects:
..... $ 1,750,000

Of the amounts appropriated in this paragraph "i", $750,000 shall be allocated as follows:

(1) One hundred thousand dollars for the development of a business licensure center for the department of economic development.

(2) Five hundred thousand dollars for a community resources directory for the department of Iowa workforce development.

(3) One hundred fifty thousand dollars for the implementation of an enterprise-wide information security system plan.

Notwithstanding section 8.33, moneys allocated to the division of information technology services in this paragraph "i", other than the moneys allocated in this paragraph "i", subparagraphs (1) and (3), which remain unobligated or unexpended at the close of the fiscal year shall not revert but shall remain available for the purpose for which allocated in the subparagraph for the fiscal year beginning July 1, 2000, and ending June 30, 2001.

l. To the office of the governor for technology upgrades:
..... $ 45,000

Notwithstanding section 8.33, moneys allocated to the office of the governor in this paragraph "l" which remain unobligated or unexpanded[5] at the close of the fiscal year shall not revert but shall remain available for the purpose designated for the fiscal year beginning July 1, 2000, and ending June 30, 2001.

[5] According to enrolled Act

Sec. 21. Section 455G.22, Code 1999, is repealed.

Sec. 22. Notwithstanding section 455G.22, unencumbered and unobligated moneys remaining in the no further action fund on the effective date of this section shall be transferred to the pooled technology account established in section 5 of this Act.

**Sec. 23. Section 14B.102, subsection 2, paragraph d, as enacted by 2000 Iowa Acts, Senate File 2395, is amended to read as follows:*

*d. ~~Developing and implementing recommended~~ Implementing standards for information technology~~, including but not limited to system design and systems integration and interoperability,~~ as developed by the council pursuant to section 14B.107, which when implemented shall apply to all participating agencies except as otherwise provided in this chapter. The department shall implement information technology standards as established pursuant to this chapter which are applicable to information technology procurements for participating agencies and to information technology development by participating agencies.**

**Sec. 24. Section 14B.104, subsection 2, paragraph b, as enacted by 2000 Iowa Acts, Senate File 2395, is amended to read as follows:*

*b. Develop recommended standards ~~for consideration~~ with respect to the procurement and development of information technology by all participating agencies as provided in section 14B.107.**

**Sec. 25. Section 14B.107, as enacted by 2000 Iowa Acts, Senate File 2395, is amended to read as follows:*

14B.107 INFORMATION TECHNOLOGY STANDARDS.

The information technology council shall develop recommended standards for consideration with respect to the procurement and development of information technology by all participating agencies. It is the intent of the general assembly that information technology standards be established for the purpose of guiding such procurements and development. Such standards, unless waived by the council, shall apply to all information technology procurements for participating agencies and to all information technology development by participating agencies.

Standards adopted pursuant to this section shall apply to existing information technology in use by participating agencies on the effective date of this Act. A participating agency, by no later than June 30, 2002, shall seek to procure or develop information technology to replace existing information technology which does not meet the standards adopted by the council, unless a waiver is procured with respect to such information technology pursuant to section 14B.104.

*The office of the governor or the office of an elective constitutional or statutory officer shall consult with the department prior to procuring or developing information technology and consider the standards recommended by the council, and provide a written report to the department relating to the office's decision regarding such ~~acquisitions~~ procurements or development.**

**Sec. 26. Section 14B.108, subsection 2, paragraph a, as enacted by 2000 Iowa Acts, Senate File 2395, is amended to read as follows:*

*a. Standards established by the council, unless waived pursuant to section 14B.104, shall apply to all information technology procurements for participating agencies and to all information technology development by participating agencies.**

Sec. 27. TECHNOLOGY SERVICES FOR ACCREDITED NONPUBLIC SCHOOL STUDENTS.

1. Technology adopted and purchased by a school district shall, to the extent funds are appropriated by the general assembly, be made available to students of accredited nonpublic schools located within the boundaries of the school district upon the written request of the

* Item veto; see message at end of the Act

authorities in charge of the accredited nonpublic school on behalf of the school's students as provided in this section.

2. Funds appropriated for purposes of this section shall be allocated to school districts for the purchase of technology for accredited nonpublic schools as provided in this section, subject to the restrictions of section 295.4, subsection 1. The department of education shall ascertain a maximum annual amount the school district shall be required to use for the purchase of technology for participating accredited nonpublic schools. The amount shall be in the proportion that the basic enrollment of a participating accredited nonpublic school bears to the sum of the basic enrollments of all participating accredited nonpublic schools in the state for the budget year. A participating accredited nonpublic school shall certify its actual enrollment to the department of education by October 1, 2000. By October 15, 2000, the department of education shall notify the board of directors of each school district of the maximum amount of its allocation that shall be made available for purchasing nonsectarian, nonreligious technology for each of the participating accredited nonpublic schools located within the school district in accordance with this section. For purposes of this section only, an accredited nonpublic school's enrollment count shall include only students who are residents of Iowa.

3. The costs of providing technology to participating accredited nonpublic schools as provided in this section shall not be included in the computation of district cost under chapter 257, but shall be shown in the budget as an expense from miscellaneous income. Technology expenditures made in accordance with this section shall be kept on file in the school district.

Sec. 28. CONDITIONAL EFFECTIVENESS.

1. Sections 8 through 12 of this Act take effect upon the effective date of an enactment of the general assembly during the 2000 regular legislative session, signed by the governor, which establishes an information technology department. If sections 8 through 12 take effect pursuant to this subsection, the Code editor shall transfer sections 18.183, 18.184, 18.185, and 18.187, as amended by this Act, and section 18.186 to the new Code chapter establishing an information technology department, as appropriate. The term "department" in sections 18.183, 18.184, 18.185, and 18.187, as amended by this Act, means the information technology department.

2. The references to the division of information technology services of the department of general services in this Act, if enacted, shall be corrected by the Code editor to refer to the information technology department, if an information technology department is established by enactment of the general assembly during the 2000 regular legislative session, and signed by the governor.[6]

Sec. 29. DEPARTMENT OF MANAGEMENT RECOMMENDATIONS. The department of management shall develop written recommendations to be delivered to the general assembly by no later than the start of the 2001 regular legislative session with respect to both of the following:

1. Resolution of the overbilling of the federal government for certain services provided by the state to the federal government, and as a result of which the federal government is seeking reimbursement.

2. The manner in which the state's three data centers should be managed.

Sec. 30. EFFECTIVE DATE. Sections 5, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, and 28 of this Act, being deemed of immediate importance, take effect upon enactment.

Approved May 13, 2000, with exceptions noted.

THOMAS J. VILSACK, *Governor*

[6] See chapter 1141 herein

Dear Mr. Secretary:

I hereby transmit Senate File 2433, an Act relating to state government technology and operations, by making and relating to appropriations to the Iowa Communications Network for the support of certain Part III users, making appropriations to various entities for other technology-related purposes, providing for the procurement of information technology, providing for the use of the network, and providing an effective date.

Senate File 2433 is a bill I will approve reluctantly, as it contains a number of useful provisions which will begin to upgrade and modernize technology operations in state government, but falls far short of meeting the identified needs. If we are to truly run our state government "like a business," the Legislature must do much better, in the future, to provide an adequate, dedicated funding stream for technology projects, just as many businesses do. In this electronic day and age, as we are attempting to manage the large enterprise of state government, and provide easier, round the clock access to government services to all Iowans, we must have adequate resources to upgrade technology. This bill provides needed operational funding for information technology, but at levels notably below my recommendations. This bill provides needed funding for technology projects that will allow services to be more efficiently delivered to Iowans, but at levels greatly below — perhaps as much as 50% below — the level needed.

I am hopeful that legislators will understand the need for us to work together in the coming year, as we begin to implement both the new Information Technology Department, and the provisions of this bill, to do significantly better next year on providing the necessary adequate, dedicated funding for technology. We will only succeed at providing the greatest management efficiencies and access to government services for Iowa taxpayers when we have done so. This bill does not fully accomplish those goals.

I hereby approve Senate File 2433, with the following exceptions, which I hereby disapprove.

I am unable to approve the item designated as Section 4, last unnumbered paragraph, in its entirety. This item requires the approval of the Department of Management prior to any possible fee increases by the new Information Technology Department. Given the underfunding of the ITD operations budget by the Legislature, there is a distinct possibility that fee increases may be necessary. I have received assurances that the two Departments will work cooperatively to examine any proposed fee or rate increases, without the necessity of this legislative mandate.

I am unable to approve the item designated as Section 5, subsection 2, paragraph d, in its entirety. This item allocated $200,000 to the Department of Management to develop an automated budget program for Township Trustees. This request was not submitted for review by the Information Technology Infrastructure Advisory Committee, and to my knowledge was not even a part of any committee discussion during the legislative process. For these reasons, I believe it is premature to earmark funds for this project, or to elevate it above other worthy projects already evaluated. If this project is submitted for review later this year by the advisory committee, I will give it further consideration at that time.

I am unable to approve the items designated as Sections 23, 24, 25, and 26 in their entirety. These items amend portions of Senate File 2395, the Information Technology Department bill, which was previously passed. These sections deal with the development and implementation of technology standards in state government. I appreciate the efforts of legislators to improve the language in these sections by amendment late in the process. Upon

further review, however, I have come to the conclusion that the language in these sections, even as amended, is not needed.

For the above reasons, I hereby respectfully approve Senate File 2433 with the exceptions noted above.

Sincerely,
THOMAS J. VILSACK, *Governor*

CHAPTER 1227

APPROPRIATIONS — JUDICIAL BRANCH

H.F. 2554

AN ACT relating to and making appropriations to the judicial branch.

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

Section 1. JUDICIAL BRANCH. There is appropriated from the general fund of the state to the judicial branch for the fiscal year beginning July 1, 2000, and ending June 30, 2001, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. 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, 2000, and maintenance, equipment, and miscellaneous purposes:

..... $ 109,008,259

a. 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.

b. The judicial branch shall submit monthly financial statements to the legislative fiscal bureau and the department of management containing all appropriated accounts in the same manner as provided in the monthly financial status reports and personal services usage reports of the department of revenue and finance. The monthly financial statements shall include a comparison of the dollars and percentage spent of budgeted versus actual revenues and expenditures on a cumulative basis for full-time equivalent positions and dollars.

c. The judicial branch shall continue to assist in the development and implementation of a justice data warehouse which shall include in the Iowa court information system, starting with appointments of counsel made on or after July 1, 1999, the means to identify any case where the court has determined indigence, and whether the case is handled by a public defender or other court-appointed counsel.

d. Of the funds appropriated in this subsection, not more than $1,897,728 may be transferred into the revolving fund established pursuant to section 602.1302, subsection 3, to be used for the payment of jury and witness fees and mileage.

e. The judicial branch shall focus efforts upon the collection of delinquent fines, penalties, court costs, fees, surcharges, or similar amounts.

f. It is the intent of the general assembly that the offices of the clerks of the district court operate in all ninety-nine counties and be accessible to the public as much as is reasonably possible in order to address the relative needs of the citizens of each county.

g. 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 branch in this Act, unless notice of the revisions is given prior to their effective date to the legislative fiscal bureau. The notice shall include information on the branch's rationale for making the changes and details concerning the work load and performance measures upon which the changes are based.

h. The judicial branch shall provide to the cochairpersons and ranking members of the joint appropriations subcommittee on the justice system and to the legislative fiscal bureau by January 15, 2001, an annual report concerning the operation and use of the Iowa court information system and any recommendations to improve the utilization of the system. The annual report shall include information specifying the amounts of fines, surcharges, and court costs collected using the system and how the system is used to improve the collection process. The report shall also include information concerning efforts made by the judicial branch 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. In addition, the judicial branch shall submit a semiannual update to the co-chairpersons and ranking members specifying the amounts of fines, surcharges, and court costs collected using the Iowa court information system since the last report.

i. The judicial branch shall provide a report to the general assembly by January 1, 2001, 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 4, during the fiscal year beginning July 1, 1999, and ending June 30, 2000, and the plans for expenditures from each fund during the fiscal year beginning July 1, 2000, and ending June 30, 2001.

j. The judicial branch shall continue to provide criminal justice data to the department of corrections for use by the Iowa corrections offender network (ICON) data system.

2. For the juvenile victim restitution program:

..... $ 210,291

Sec. 2. JUDICIAL RETIREMENT FUND. There is appropriated from the general fund of the state to the judicial retirement fund for the fiscal year beginning July 1, 2000, and ending June 30, 2001, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For the state's contribution to the judicial retirement fund established in section 602.9104, in the amount of 23.7 percent of the basic salaries of the judges covered under chapter 602, article 9:

..... $ 4,499,350

Sec. 3. INDIGENT DEFENSE COSTS. The supreme court shall submit a written report for the preceding fiscal year no later than January 1, 2001, indicating the amounts collected for recovery of indigent defense costs. The report shall include the total amount collected by all courts, as well as the amounts collected by each judicial district. The supreme court shall also submit a written report quarterly indicating the number of criminal and juvenile filings which occur in each judicial district for purposes of estimating indigent defense costs. A copy of each report shall be provided to the public defender, the department of management, and the legislative fiscal bureau. The judicial branch shall continue to assist in the development of an automated data system for use in the sharing of information utilizing the justice data warehouse for legislative and executive branch uses.

Sec. 4. ENHANCED COURT COLLECTIONS FUND — DISTRIBUTION. Of the moneys collected and deposited in the enhanced court collections fund created in section 602.1304 during the fiscal year beginning July 1, 2000, $668,390 are appropriated to and shall be expended by the judicial branch for the continued implementation of the justice data warehouse. Of the moneys appropriated in this section, $60,000 shall be transferred to the division of criminal and juvenile justice planning of the department of human rights for 1.00 FTE position to support the justice data warehouse, and $608,390 shall be transferred to the division of information technology services of the department of general services for lease-purchase costs, and other related expenses, concerning the justice data warehouse.

However, the moneys appropriated and transferred pursuant to this section shall be reduced to the extent moneys are appropriated for the purposes provided in this section to the division of information technology services of the department of general services or the division of criminal and juvenile justice planning of the department of human rights from moneys made available pursuant to section 8.62.

Approved May 16, 2000

CHAPTER 1228

APPROPRIATIONS — HUMAN SERVICES

S.F. 2435

AN ACT relating to appropriations for the department of human services and including other provisions and appropriations involving human services and health care, providing effective dates, and providing for retroactive applicability.

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

Section 1. SOCIAL SERVICES BLOCK GRANT SUPPLEMENTATION. There is appropriated from the fund created in section 8.41 to the department of human services for the fiscal year beginning July 1, 1999, and ending June 30, 2000, from moneys received under the federal temporary assistance for needy families block grant, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For supplementation of the federal social services block grant appropriation in 1999 Iowa Acts, chapter 193, section 12, due to the federal reduction in this block grant and the corresponding decrease pursuant to 1999 Iowa Acts, chapter 193, section 16:

..... $ 1,197,328

The moneys appropriated in this section are allocated for the indicated programs and functions within the department as follows:

1. General administration:

..... $ 76,136

2. Field operations:

..... $ 455,372

3. Child and family services:

..... $ 68,111

4. Local administrative costs and other local services:

..... $ 48,294

5. Volunteers:

..... $ 5,278

6. Community-based services:
..... $ 6,069
7. MH/MR/DD/BI community services (local purchase):
..... $ 538,068

Sec. 2. EARLY CHILDHOOD FUNDING.

1. There is appropriated from the fund created in section 8.41 to the department of human services for the specified fiscal years from moneys received under the federal temporary assistance for needy families block grant pursuant to the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

a. For the fiscal year beginning July 1, 2000, and ending June 30, 2001, for distribution in addition to previously appropriated moneys to fund community-based programs targeted to children from birth through five years of age developed by community empowerment areas:
..... $ 2,550,000

b. For the fiscal year beginning July 1, 2001, and ending June 30, 2002, for distribution in addition to previously appropriated moneys to fund community-based programs targeted to children from birth through five years of age developed by community empowerment areas:
..... $ 2,550,000

2. The appropriation made in 1998 Iowa Acts, chapter 1218, section 2, from the fund created in section 8.41 to the department of human services for the fiscal year beginning July 1, 2000, and ending June 30, 2001, and the appropriation made in subsection 1, paragraph "a", from moneys received under the federal temporary assistance for needy families block grant shall be used for funding of community-based programs targeted to children from birth through five years of age, developed by community empowerment areas as provided in this section.

3. The department may transfer federal temporary assistance for needy families block grant funding appropriated and allocated in this section to the child care and development block grant in accordance with federal law as necessary to comply with the provisions of this section. The funding shall then be provided to community empowerment areas for the fiscal year beginning July 1, 2000, in accordance with all of the following:

a. The area must be approved as a designated community empowerment area by the Iowa empowerment board.

b. The maximum funding amount a community empowerment area is eligible to receive shall be determined by applying the area's percentage of the state's average monthly family investment program population in the preceding fiscal year to the total amount appropriated and allocated in this section for fiscal year 2000-2001.

c. A community empowerment area receiving funding shall comply with any federal reporting requirements associated with the use of that funding and other results and reporting requirements established by the Iowa empowerment board. The department shall provide technical assistance in identifying and meeting the federal requirements.

d. The availability of funding provided under this section is subject to changes in federal requirements and amendments to Iowa law.

4. The moneys distributed in accordance with this section shall be used by communities for the purposes of enhancing quality child care capacity in support of parent capability to obtain or retain employment. The moneys shall be used with a primary emphasis on low-income families and children from birth to five years of age. Moneys shall be provided in a flexible manner to communities, and shall be used to implement strategies identified by the communities to achieve such purposes. The strategies may include but are not limited to developing capacity for regular child care, sick child care, night shifts child care, and emergency child care; enhancing linkages between the head start and early head start programs, early childhood development programs, and child care assistance programs; and implementing other strategies to enhance access to child care. The moneys may be used to either build capacity or for support of ongoing efforts. In addition to the full-time equivalent

positions funded in this Act, 1.00 full-time equivalent position is authorized and the department may use funding appropriated in this section for provision of technical assistance and other support to communities developing and implementing strategies with moneys distributed in accordance with this section.

5. Moneys which are subject to this section which are not distributed to a community empowerment area or otherwise remain unobligated or unexpended at the end of the fiscal year shall revert to the fund created in section 8.41 to be available for appropriation by the general assembly in a subsequent fiscal year.

Sec. 3. 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, 2000, and ending June 30, 2001, from moneys received under the federal temporary assistance for needy families block grant pursuant to the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, which are federally appropriated for the federal fiscal years beginning October 1, 1998, and ending September 30, 1999, and beginning October 1, 1999, and ending September 30, 2000, and beginning October 1, 2000, and ending September 30, 2001, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

Moneys appropriated in this section shall be used in accordance with the federal law making the funds available, applicable Iowa law, appropriations made from the general fund of the state in this Act for the purpose designated, and administrative rules adopted to implement the federal and Iowa law. If actual federal revenues credited to the fund created in section 8.41 through June 30, 2001, are less than the amounts appropriated in this section, the amounts appropriated shall be reduced proportionately and the department may reduce expenditures as deemed necessary by the department to meet the reduced funding level:

1. To be credited to the family investment program account and used for assistance under the family investment program under chapter 239B:

..... $ 44,035,883

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:

..... $ 19,980,113

3. For field operations:

..... $ 12,870,415

4. For general administration:

..... $ 3,227,683

5. For local administrative costs:

..... $ 2,147,358

6. For state child care assistance:

..... $ 23,219,567

a. Of the funds appropriated in this subsection, $200,000 shall be used for child care emergency and start-up grants in accordance with this paragraph. The funding allocated in this paragraph shall be used to provide emergency grants to existing licensed or registered child care facilities having negative financial circumstances that will cause the facilities to close without outside assistance. The funding shall also be used to provide start-up funding to develop new licensed or registered child care facilities that will increase the availability of child care slots in communities. The department shall establish criteria for distribution of the grant funding. The criteria shall include a requirement that grant funding is used to further the long-term financial survival of grant recipients, a requirement that funding is targeted to facilities providing essential child care services to low-income families, required disclosure of necessary financial information, establishment of a maximum grant amount and a maximum number of grants to be issued in order to make funding available to as many facilities as possible, and other provisions to ensure appropriate use of the funding.

b. Of the funds appropriated in this subsection, $200,000 shall be used for assistance to providers of child care to school-age children in accordance with this paragraph. Moneys allocated in this paragraph shall be used for grants to licensed child care facilities providing care to school-age children as of July 1, 2000. The grants shall be used to increase the number of school-age children served, for expansion of slots, or for transportation costs. The grant requirements shall include provision for local match in the form of cash, in-kind services, or other support.

c. Of the funds appropriated in this subsection, $300,000 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 five percent.

d. The application for any of the grants described in the lettered paragraphs of this subsection shall not exceed two pages in length.

7. For emergency assistance:

..... $ 2,763,605

8. For mental health and developmental disabilities community services:

..... $ 4,620,848

9. For child and family services:

..... $ 23,586,793

10. For child abuse prevention:

..... $ 731,000

11. For pregnancy prevention grants on the condition that family planning services are funded:

..... $ 2,517,477

Pregnancy prevention grants shall be awarded to programs in existence on or before July 1, 2000, 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, 2000, if the programs are comprehensive in scope and are based on existing models that have demonstrated positive outcomes. Priority in the awarding of grants shall be given to programs that serve areas of the state which demonstrate the highest percentage of unplanned pregnancies of females age 13 or older but younger than age 18 within the geographic area to be served by the grant.

12. For technology needs and other resources necessary to meet federal welfare reform reporting, tracking, and case management requirements:

..... $ 1,006,442

13. For supervised community treatment under child and family services:

..... $ 300,000

14. For volunteers:

..... $ 45,327

15. For individual development accounts under chapter 541A:

..... $ 200,000

Of the amounts appropriated in this section, $11,877,714 for the fiscal year beginning July 1, 2000, shall be transferred to the appropriation of the federal social services block grant for that fiscal year.

Eligible funding available under the federal temporary assistance for needy families block grant that is not appropriated or not otherwise expended shall be considered reserved for economic downturns and welfare reform purposes and is subject to further state appropriation to support families in their movement toward self-sufficiency.

Sec. 4. FAMILY INVESTMENT PROGRAM ACCOUNT.

1. Moneys credited to the family investment program (FIP) account for the fiscal year beginning July 1, 2000, and ending June 30, 2001, shall be used in accordance with the following requirements:

a. The department shall provide assistance in accordance with chapter 239B.

b. The department shall continue the special needs program under the family investment program.

c. The department shall continue to comply with federal welfare reform data requirements pursuant to the appropriations made for that purpose.

d. The department shall continue to make entrepreneurial training available to families receiving assistance under the family investment program. The department may contract for these services.

e. The department shall continue expansion of the electronic benefit transfer program as necessary to comply with federal requirements. Notwithstanding 1998 Iowa Acts, chapter 1218, section 5, subsection 1, paragraph "d", and 1999 Iowa Acts, chapter 203, section 5, subsection 1, paragraph "d", the target date for statewide implementation of the program is October 1, 2002.

f. The department, in entering into a contract relating to the equipment to be used in implementation of the electronic benefits transfer program in accordance with section 234.12A, shall only enter into a contract which provides for the use of a card which is compatible with the standards established for electronic transfer of funds under chapter 527 for a multiple-use terminal as defined in section 527.2, and which only provides for receipt of state benefits and entitlements under the purview of the department of human services.

2. The department may use a portion of the moneys credited to the family investment account under this section, as necessary for salaries, support, maintenance, and miscellaneous purposes for not more than the following full-time equivalent positions which are in addition to any other full-time equivalent positions authorized by this Act:

..... FTEs 8.00

3. The department may transfer funds in accordance with section 8.39, either federal or state, to or from the child care appropriations made for the fiscal year beginning July 1, 2000, if the department deems this would be a more effective method of paying for JOBS program child care, to maximize federal funding, or to meet federal maintenance of effort requirements.

4. Moneys appropriated in this Act and credited to the family investment program account for the fiscal year beginning July 1, 2000, and ending June 30, 2001, are allocated as follows:

a. For the food stamp employment and training program:

..... $ 250,000

b. For the family development and self-sufficiency grant program as provided under section 217.12:

..... $ 5,697,825

(1) Of the funds allocated for the family development and self-sufficiency grant program in this lettered paragraph, not more than 5 percent of the funds shall be used for the administration of the grant program.

(2) Based upon the annual evaluation report concerning each grantee funded by previously appropriated funds and through the solicitation of additional grant proposals, the family development and self-sufficiency council may use the allocated funds to renew or expand existing grants or award new grants. In utilizing the increased funding to expand the program, the council shall give consideration, in addition to other criteria established by the council, to a grant proposal's intended use of local funds with a grant and to whether a grant proposal would expand the availability of the program's services to a wider geographic area.

(3) Family development and self-sufficiency grantees shall not supplant previous local funding with state or federal funds.

(4) The department shall continue to implement the family development and self-sufficiency grant program statewide during FY 2000-2001.

c. For income maintenance reengineering:

..... $ 700,000

* Item veto; see message at end of the Act

d. For the diversion program and incentive grants as follows:

(1) For the diversion subaccount of the family investment program account:

..... $ 3,200,000

Moneys allocated to the diversion subaccount shall be used to continue the pilot initiative of providing incentives to assist families who meet income eligibility requirements for the family investment program in obtaining or retaining employment, to assist participant families in overcoming barriers to obtaining employment, and to assist families in stabilizing employment and in reducing the likelihood of the family returning to the family investment program. Incentives may be provided in the form of payment or services. The department may limit the availability of the pilot initiative on the basis of geographic area or numbers of individuals provided with incentives. The department shall attempt to assess and screen individuals who would most likely benefit from the services. The department shall continue the diversion initiative in the fiscal year 2000-2001. In addition to the full-time equivalent positions authorized in this Act, 1.00 FTE is authorized and the department may use up to $50,000 to facilitate community investment in welfare reform and to support continuation of the diversion program. The department may grant diversion moneys to the level of the entity operating an initiative. The department may adopt additional eligibility criteria as necessary for compliance with federal law and for screening those families who would be most likely to become eligible for the family investment program if diversion incentives would not be provided.

(2) For continuation of innovative strategies on a statewide or pilot project basis for supporting job retention, family structure, or both, including services to noncustodial parents and young parents:

..... $ 650,000

(3) Of the moneys allocated in subparagraph (2), not more than $250,000 shall be used to develop or continue community-level parental obligation pilot projects. A pilot project shall be operated with the goal of assisting parents who are living apart in meeting their parental obligations and in supporting their children. A pilot project may also seek to prevent the separation of families by including families at risk of separation in project services. Any pilot project shall maximize the use of existing community resources for family counseling, legal services, mediation, job training and job skills development, substance abuse treatment and prevention, health maintenance, and personal mentoring. Local communities shall also be encouraged to provide financial resources.

(a) Notwithstanding any other provision of law to the contrary, the department shall develop procedures for the pilot projects to expedite all of the following:

(i) The establishment and adjustment of support obligations, with the consent of both parents, in a manner which may deviate from the child support guidelines.

(ii) Changes in income withholding orders based on individual case circumstances.

(iii) Satisfaction of a portion of support amounts owed to the state based on cooperation and compliance by the noncustodial parent with project requirements.

(iv) Adjustment of visitation and shared custody arrangements in a manner which enhances the ability of each parent to meet parental obligations.

(b) The department shall adopt rules for the development, operation, and monitoring of a project; to establish the minimum required amount of community support; to establish expedited procedures; and to establish other criteria and procedures as appropriate.

(c) The department shall use the funds authorized in this subparagraph to employ one full-time equivalent position to manage the pilot project or projects. The department shall also use the authorized funds to employ other full-time equivalent positions or to provide services, as necessary, to assist in the coordination, development, and operation of community-level pilot projects and to achieve the expedited procedures established. Any full-time equivalent positions authorized in this subparagraph subdivision are in addition to any other full-time equivalent positions authorized by law.

(4) Of the moneys allocated in subparagraph (2), not more than $200,000 shall be used to continue to study the impact that moving unemployed family investment program parents

into employment has on the well-being of the children, the parent, and the family. The department shall include in this well-being study a method of actual contact with the families and children, and shall consider broad-based impacts, such as educational achievement, health status, housing stability, family stability, and use of supportive social services. The department shall also seek funding through foundations and the federal government in order to supplement the funding for this study. The results of the study shall be submitted to the persons required by this Act to receive reports.

(5) Of the moneys allocated in subparagraph (2), not more than $100,000 shall be used for providing additional incentive payments to contracted agencies who demonstrate success at completing well-being visits for families terminated from the family investment program under a limited benefit plan. The department shall use these funds to increase payments to agencies who complete a higher percentage of well-being visits, who achieve a significant percentage of visits in a face-to-face format, or who are able to observe and interact with the children during a significant percentage of visits.

5. Of the child support collections assigned under the family investment program, an amount equal to the federal share of support collections shall be credited to the child support recovery appropriation. The remainder of the assigned child support collections received by the child support recovery unit shall be credited to the family investment program account.

6. The department may adopt emergency administrative rules for the family investment, food stamp, and medical assistance programs, if necessary, to comply with federal requirements. Prior to adoption of the rules, the department shall consult with the welfare reform council and the chairpersons and ranking members of the joint appropriations subcommittee on human services.

7. The department may continue to streamline and simplify the employer verification process for applicants, participants, and employers in the administration of the department's programs. The department may contract with companies collecting data from employers when the information is needed in the administration of these programs. The department may limit the availability of the initiative on the basis of geographic area or number of individuals.

Sec. 5. 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, 2000, and ending June 30, 2001, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

To be credited to the family investment program account and used for family investment program assistance under chapter 239B:

..... $ 35,545,738

1. The department of workforce development, in consultation with the department of human services, shall continue to utilize recruitment and employment practices to include former and current family investment program recipients.

2. The department of human services shall continue to work with the department of workforce development and local community collaborative efforts to provide support services for family investment program participants. The support services shall be directed to those participant families who would benefit from the support services and are likely to have success in achieving economic independence.

3. Of the funds appropriated in this section, $9,564,352 is allocated for the JOBS program.

4. The department shall continue to work with religious organizations and other charitable institutions to increase the availability of host homes, referred to as second chance homes or other living arrangements under the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, § 103. The purpose of the homes or arrangements is to provide a supportive and supervised living arrangement for minor parents receiving assistance under the family investment program who, under chapter 239B, may receive assistance while living in an alternative setting other than with their parent or legal guardian.

Sec. 6. EMERGENCY ASSISTANCE. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 2000, and ending June 30, 2001, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For emergency assistance to families with dependent children for homeless prevention programs:

..... $ 10,000

1. The emergency assistance provided for in this section and federal moneys appropriated for this purpose in this Act shall be available beginning October 1 of the fiscal year and shall be provided only if all other publicly funded resources have been exhausted. Specifically, emergency assistance is the program of last resort and shall not supplant assistance provided by the low-income home energy assistance program (LIHEAP), county general relief, and veterans affairs programs. The department shall establish a $500 maximum payment, per family, in a twelve-month period. The emergency assistance includes, but is not limited to, assisting people who face eviction, potential eviction, or foreclosure, utility shutoff or fuel shortage, loss of heating energy supply or equipment, homelessness, utility or rental deposits, or other specified crisis which threatens family or living arrangements. The emergency assistance shall be available to migrant families who would otherwise meet eligibility criteria. The department may contract for the administration and delivery of the program. The program shall be terminated when funds are exhausted.

2. For the fiscal year beginning July 1, 2000, the department shall continue the process for the state to receive refunds of utility and rent deposits, including any accrued interest, for emergency assistance recipients which were paid by persons other than the state. The department shall also receive refunds, including any accrued interest, of assistance paid with funding available under this program. The refunds received by the department under this subsection shall be deposited with the moneys of the appropriation made in this section and used as additional funds for the emergency assistance program. Notwithstanding section 8.33, moneys received by the department under this subsection which remain after the emergency assistance program is terminated and state or federal moneys in the emergency assistance account which remain unobligated or unexpended at the close of the fiscal year shall not revert to the general fund of the state but shall remain available for expenditure when the program resumes operation on October 1 in the succeeding fiscal year.

3. Of the funds appropriated in this section, $10,000 is allocated to the community voice mail program to continue the existing program. The funds shall be made available beginning July 1, 2000. The community voice mail program shall submit semiannual reports to the department which, at a minimum, specify, on a county basis, the unduplicated number of households participating in the program for the previous six-month period. The report shall be submitted no later than the last business day of the month immediately following the end of the six-month period.

Sec. 7. 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, 2000, and ending June 30, 2001, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For child support recovery, including salaries, support, maintenance, and miscellaneous purposes and for not more than the following full-time equivalent positions:

..... $ 6,471,841[1]

..... FTEs 272.40

1. The director of human services, within the limitations of the moneys appropriated in this section, or moneys transferred from the family investment program account for this purpose, shall establish new positions and add employees to the child support recovery unit if the director determines that both the current and additional employees together can reasonably be expected to maintain or increase net state revenue at or beyond the budgeted level.

[1] See chapter 1232, §109 herein

2. Nonpublic assistance application fees and other user fees received by the child support recovery unit are appropriated and shall be used for the purposes of the child support recovery program. The director of human services may add positions within the limitations of the amount appropriated for salaries and support for the positions.

3. The director of human services, in consultation with the department of management and the legislative fiscal committee, is authorized to receive and deposit state child support incentive earnings in the manner specified under applicable federal requirements.

4. a. The director of human services may establish new positions and add state employees to the child support recovery unit or contract for delivery of services if the director determines the employees are necessary to replace county-funded positions eliminated due to termination, reduction, or nonrenewal of a chapter 28E contract. However, the director must also determine that the resulting increase in the state share of child support recovery incentives exceeds the cost of the positions or contract, the positions or contract are necessary to ensure continued federal funding of the program, or the new positions or contract can reasonably be expected to recover at least twice the amount of money necessary to pay the salaries and support for the new positions or the contract will generate at least 200 percent of the cost of the contract.

b. Employees in full-time positions that transition from county government to state government employment under this subsection are exempt from testing, selection, and appointment provisions of chapter 19A and from the provisions of collective bargaining agreements relating to the filling of vacant positions.

5. If initiated by the judicial branch, the child support recovery unit shall continue to work with the judicial branch to determine the feasibility of implementing a pilot project utilizing a court-appointed referee for judicial determinations on child support matters. The extent and location of any pilot project shall be jointly developed by the judicial branch and the child support recovery unit.

6. Surcharges paid by obligors and received by the unit as a result of the referral of support delinquency by the child support recovery unit to any private collection agency are appropriated to the department and shall be used to pay the costs of any contracts with the collection agencies.

7. The department shall expend up to $51,000, including federal financial participation, for the fiscal year beginning July 1, 2000, for a child support public awareness campaign. The department and the office of the attorney general shall cooperate in continuation of the campaign. The public awareness campaign shall emphasize, through a variety of media activities, the importance of maximum involvement of both parents in the lives of their children as well as the importance of payment of child support obligations.

Sec. 8. 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, 2000, and ending June 30, 2001, 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, 2000, 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:

..... $ 400,662,028

1. Medically necessary abortions are those performed under any of the following conditions:

a. The attending physician certifies that continuing the pregnancy would endanger the life of the pregnant woman.

b. The attending physician certifies that the fetus is physically deformed, mentally deficient, or afflicted with a congenital illness.

c. The pregnancy is the result of a rape which is reported within 45 days of the incident to a law enforcement agency or public or private health agency which may include a family physician.

d. The pregnancy is the result of incest which is reported within 150 days of the incident to a law enforcement agency or public or private health agency which may include a family physician.

e. Any spontaneous abortion, commonly known as a miscarriage, if not all of the products of conception are expelled.

2. Notwithstanding section 8.39, the department may transfer funds appropriated in this section to a separate account established in the department's case management unit for expenditures required to provide case management services for mental health, mental retardation, and developmental disabilities services under medical assistance which are jointly funded by the state and county, pending final settlement of the expenditures. Funds received by the case management unit in settlement of the expenditures shall be used to replace the transferred funds and are available for the purposes for which the funds were appropriated in this section.

3. a. The county of legal settlement shall be billed for 50 percent of the nonfederal share of the cost of case management provided for adults, day treatment, and partial hospitalization in accordance with sections 249A.26 and 249A.27, and 100 percent of the nonfederal share of the cost of care for adults which is reimbursed under a federally approved home and community-based waiver that would otherwise be approved for provision in an intermediate care facility for persons with mental retardation, provided under the medical assistance program. The state shall have responsibility for the remaining 50 percent of the nonfederal share of the cost of case management provided for adults, day treatment, and partial hospitalization. For persons without a county of legal settlement, the state shall have responsibility for 100 percent of the nonfederal share of the costs of case management provided for adults, day treatment, partial hospitalization, and the home and community-based waiver services. The case management services specified in this subsection shall be billed to a county only if the services are provided outside of a managed care contract.

b. The state shall pay the entire nonfederal share of the costs for case management services provided to persons 17 years of age and younger who are served in a medical assistance home and community-based waiver program for persons with mental retardation.

c. Medical assistance funding for case management services for eligible persons 17 years of age and younger shall also be provided to persons residing in counties with child welfare decategorization projects implemented in accordance with section 232.188, provided these projects have included these persons in their service plan and the decategorization project county is willing to provide the nonfederal share of costs.

d. When paying the necessary and legal expenses of intermediate care facilities for persons with mental retardation (ICFMR), the cost payment requirements of section 222.60 shall be considered fulfilled when payment is made in accordance with the medical assistance payment rates established for ICFMRs by the department and the state or a county of legal settlement is not obligated for any amount in excess of the rates.

4. The department shall utilize not more than $60,000 of the funds appropriated in this section to continue the AIDS/HIV health insurance premium payment program as established in 1992 Iowa Acts, Second Extraordinary Session, Chapter 1001, section 409, subsection 6. Of the funds allocated in this subsection, not more than $5,000 may be expended for administrative purposes.

5. Of the funds appropriated to the Iowa department of public health for substance abuse grants, $950,000 for the fiscal year beginning July 1, 2000, shall be transferred to the department of human services for an integrated substance abuse managed care system.

6. In administering the medical assistance home and community-based waiver for persons with physical disabilities, the department shall aggressively pursue options to expand the waiver to 100 openings and in implementing the expanded waiver the total number of openings for persons with physical disabilities served at any one time shall be limited to the number approved in the waiver by the secretary of the United States department of health and human services. The openings shall be available on a first-come, first-served basis.

7. The department of human services, in consultation with the Iowa department of public health and the department of education, shall continue the program to utilize the early and periodic screening, diagnosis, and treatment (EPSDT) funding under medical assistance, to the extent possible, to implement the screening component of the EPSDT program through the school system. The department may enter into contracts to utilize maternal and child health centers, the public health nursing program, or school nurses in implementing this provision.

8. The department shall continue the case study for outcome-based performance standards for programs serving persons with mental retardation or other developmental disabilities proposed pursuant to 1994 Iowa Acts, chapter 1170, section 56.

9. The department shall continue to pursue federal approval of a medical assistance home and community-based services waiver to allow children with mental retardation, who would otherwise require ICF/MR care, to be served in out-of-home settings of up to eight beds which meet standards established by the department. If the waiver is not approved, up to $1,487,314 of the funds appropriated in this section may be transferred to the appropriation in this Act for child and family services, to be used for group foster care maintenance and services.

10. The department shall discontinue the following pilot programs on July 1, 2000:

a. The telemedicine pilot program.

b. The physician supervised weight-loss pilot program.

11. The department shall work with county representatives in aggressively taking the steps necessary to implement the rehabilitation option for services to persons with chronic mental illness under the medical assistance program, and county funding shall be used to provide the match for the federal funding, except for individuals with state case status, for whom state funding shall provide the match. **The department and county representatives shall appear in January 2001 before the joint appropriations subcommittee on human services to report their proposals concerning implementation of the option.**

12. The department shall increase the medical assistance eligibility income limit for pregnant women and infants under the mothers and children category to 200 percent of the federal poverty level.

13. If the health care financing administration approves a waiver request from the department, the department shall provide a period of 24 months of guaranteed eligibility for medical assistance family planning services, regardless of the change in circumstances of a woman who was a medical assistance recipient when a pregnancy ended.

14. The department of human services shall review the personal assistance services pilot project, and consumer-directed care provisions and other home and community-based services waivers utilized by the department and shall submit a report to the governor and the general assembly by December 15, 2000, regarding options for termination, expansion, and consolidation of the services and waivers.

15. The department shall aggressively pursue options for providing medical assistance or other assistance to individuals with special needs who become ineligible to continue receiving services under the early and periodic, screening, diagnosis, and treatment program under the medical assistance program due to becoming 21 years of age, who have been approved for additional assistance through the department's exception to policy provisions, but who have health care needs in excess of the funding available through the exception to policy process.

16. The department shall adopt emergency rules providing for reimbursement under medical assistance for family and pediatric nurse practitioners who are employed by a hospital and are providing services in a hospital-owned facility or in another location that is not on or part of the hospital's licensed premises.

17. Of the funds appropriated in this section, $100,000 is allocated for development of options for implementation of a personal assistance services program, based upon the provisions outlined in House File 2380, as introduced in the Seventy-eighth General Assembly, 2000 Session.

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* Item veto; see message at end of the Act

The department, in consultation with the department of elder affairs, the Iowa department of public health, the department of workforce development, the department of education, division of vocational rehabilitation, the department of economic development, the Iowa state association of counties, Iowa creative employment options, the community services affiliate of the Iowa state association of counties, and the personal assistance and family support services council, shall convene a planning committee on or before September 1, 2000, which includes consumers and family members, advocates of consumers, providers of services to consumers, and the entities consulted with, to assist in the development of a plan for a personal assistance services program based on principles and standards described in this chapter. The membership of the planning committee shall be appointed in a manner so there are relatively equal proportions of members with involvement in service management, purchasing or approval, and members with an interest in or involvement as a service consumer or advocate. The planning committee shall also include four members of the general assembly to serve in an ex officio, nonvoting capacity with one each appointed by the following: senate majority leader, senate minority leader, speaker of the house of representatives, and minority leader of the house of representatives. The department may contract for services to support the planning committee.

The planning committee shall review federal guidelines and other guidance, other states' approaches, and other resources in its planning efforts. The planning committee shall submit to the governor and the general assembly an initial set of options on or before March 1, 2001, and a final set of options, including a transition plan, on or before January 31, 2002. The options which the planning group shall provide shall include but are not limited to all of the following:

a. Designate a lead agency to be responsible for administering the personal assistance services program.

b. Provide that the personal assistance and family support services policy council assist in the design, implementation, marketing, and evaluation of the state's personal assistance services program.

c. Provide a consumer-level administrative oversight and technical assistance mechanism relating to the planning, administrative rules development, and implementation of the personal assistance services program.

d. Provide for a transition process, with action steps and time lines, describing how the state will make personal assistance services a viable option that is more cost-effective and responsive to the needs and preferences of consumers.

e. Describe a process for consolidating all noninstitutional personal assistance services programs funded through the medical assistance program.

f. Describe the type of personal assistance services to be provided under the program.

g. Describe the method of delivery of personal assistance services and how such services will be delivered statewide.

h. Evaluate the feasibility of further reducing costs and addressing consumer needs and preferences through the provision of auxiliary services such as assistive technology and home modifications.

i. Describe a program intake process that will be uniform throughout the state.

j. Review and consolidate the eligibility requirements, intake processes, assessment tools, and other relevant processes of all existing personal assistance services waiver and pilot programs into a single, comprehensive system.

k. Describe the standards and mechanisms for copayments or cost-sharing and the methods used to determine income eligibility of persons with disabilities.

l. Determine quality assurance outcomes and safeguards against physical, emotional, or financial abuse and exploitation.

m. Describe the appeal process.

n. Describe how the barriers and disincentives that currently discourage people from becoming personal assistants can be removed.

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o. Address the issues of provider and consumer liability.

p. Describe acceptable methods whereby independent personal assistance services providers may pool resources to ensure adequate coverage provisions for health insurance, liability insurance, and workers' compensation insurance.

q. Consult with the health care financing administration of the United States department of health and human services, in reviewing and completing a plan for consolidation and coordination of funding mechanisms and expenditures relative to health care facility services, intermediate care facilities for persons with mental retardation services, all covered home and community-based services provided under section 1915(c) of the federal Social Security Act, services provided under the personal care option of the medical assistance program, and frail elderly program services. The plan shall provide for consolidation and coordination of funding mechanisms and expenditures in order to provide funding for the personal assistance services described in this subsection and shall address the costs and potential cost offsets in implementing the personal care option under the medical assistance program.

*r. Develop options to capitalize on and leverage federal funding to the maximum extent possible under the federal Ticket to Work and Work Incentives Improvement Act of 1999, Pub. L. No. 106-170 and the federal Workforce Investment Act of 1998, Pub. L. No. 105-220.**

Sec. 9. PHARMACEUTICAL CASE MANAGEMENT STUDY. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 2000, and ending June 30, 2001, the following amount or so much thereof as is necessary, to be used for implementation of a disease-specific pharmaceutical case management study to measure the effects of case management for medical assistance recipients identified by the department as high risk for medication-related problems. The funds shall be used to equally reimburse physician-pharmacist teams who participate in the study. An advisory committee whose membership consists of representatives of the Iowa medical society, the Iowa pharmacy association, and the department of human services shall establish and implement the pharmaceutical case management study. The university of Iowa college of public health, in conjunction with the colleges of medicine and pharmacy, shall perform an evaluation of the study at no cost to the state and shall submit a final report of the findings of the evaluation and any recommendations to the general assembly by December 15, 2002. The department shall submit a progress report by December 15, 2001, and a final report by December 15, 2002, to the general assembly. The department shall adopt rules to implement this section which comply with the notice of intended action requirements of section 17A.4, subsection 1, and which may be adopted as emergency rules pursuant to section 17A.5, subsection 2, after notice is provided. The rules shall be reevaluated by the department of human services with input from the Iowa medical society and the Iowa pharmacy association, upon submission of the final report or by December 15, 2002, whichever occurs first:

..... $ 414,000

Sec. 10. HEALTH INSURANCE PREMIUM PAYMENT PROGRAM. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 2000, and ending June 30, 2001, 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:

..... $ 400,721
..... FTEs 17.00

Sec. 11. CHILDREN'S HEALTH INSURANCE PROGRAM. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 2000, and ending June 30, 2001, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

* Item veto; see message at end of the Act

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:

..... $ 4,984,508

1. The department may transfer funds appropriated in this section to be used for the purpose of expanding health care coverage to children under the medical assistance program. The department shall provide periodic updates to the general assembly of expenditures of funds appropriated in this section.

2. The department shall provide a report to the HAWK-I board and to the general assembly by January 15, 2001, specifying the actual cost reported by each participating insurer of providing monthly coverage to eligible children under the children's health insurance program.

3. Moneys in the HAWK-I trust fund are appropriated and shall be used to offset any program costs for the fiscal year beginning July 1, 2000, and ending June 30, 2001.

4. The department of human services shall seek a waiver from the health care financing administration of the United States department of health and human services to permit families with children who are eligible for medical assistance to elect to participate under the HAWK-I program in lieu of participation in the medical assistance program. If the waiver is approved, the department shall implement the provision.

*5. *Representatives of the community action program agencies receiving funding from the state to provide outreach for the HAWK-I program shall appear before the joint appropriations subcommittee on human services in January 2001 to report the outcomes of the outreach efforts.**

Sec. 12. MEDICAL CONTRACTS. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 2000, and ending June 30, 2001, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For medical contracts:

..... $ 8,426,282

In any managed care contract for mental health or substance abuse services entered into or extended by the department on or after July 1, 2000, the request for proposals shall provide for coverage of dual diagnosis mental health and substance abuse treatment provided at the state mental health institute at Mount Pleasant. To the extent possible, the department shall also amend any such contract existing on July 1, 2000, to provide for such coverage.

Sec. 13. STATE SUPPLEMENTARY ASSISTANCE. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 2000, and ending June 30, 2001, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For state supplementary assistance, funeral assistance, and the medical assistance home and community-based services waiver rent subsidy program:

..... $ 19,985,747

1. The department shall increase the personal needs allowance for residents of residential care facilities by the same percentage and at the same time as federal supplemental security income and federal social security benefits are increased due to a recognized increase in the cost of living. The department may adopt emergency rules to implement this subsection.

2. a. If during the fiscal year beginning July 1, 2000, 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

* Item veto; see message at end of the Act

making programmatic adjustments or upward adjustments of the residential care facility or in-home health-related care reimbursement rates prescribed in this Act to ensure that federal requirements are met. The department may adopt emergency rules to implement the provisions of this subsection.

b. If during the fiscal year beginning July 1, 2000, the department projects that state supplementary assistance expenditures will exceed the amount appropriated, the department may transfer funds appropriated in this Act for medical assistance for the purposes of the state supplementary assistance program. However, funds shall only be transferred from the medical assistance appropriation if the funds transferred are projected to be in excess of the funds necessary for the medical assistance program.

3. The department may use up to $75,000 of the funds appropriated in this section for a rent subsidy program for adult persons to whom all of the following apply:

a. Are receiving assistance under a medical assistance home and community-based services (HCBS) waiver.

b. Were discharged from a medical institution in which they have resided or were at risk of institutional placement, not to exceed 100 slots. Within available funding and demonstrated need, the department may make subsidy funds available to HCBS waiver-eligible adults meeting criteria in paragraph "a" and this paragraph at any time on or after July 1, 1995.

The goal of the subsidy program shall be to encourage and assist in enabling persons who currently reside in a medical institution to move to a community living arrangement. An eligible person may receive assistance in meeting their rental expense and, in the initial two months of eligibility, in purchasing necessary household furnishings and supplies. The program shall be implemented so that it does not meet the federal definition of state supplementary assistance and will not impact 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.

Sec. 14. CHILD CARE ASSISTANCE. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 2000, and ending June 30, 2001, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For child care programs:

..... $ 5,050,752

1. Of the funds appropriated in this section, $4,414,109 shall be used for state child care assistance.

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 requirements of this section. 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, $636,641 is allocated for the statewide program for child care resource and referral services under section 237A.26.

4. The department may use any of the funds appropriated in this section as a match to obtain federal funds for use in expanding child care assistance and related programs. For the purpose of expenditures of state and federal child care funding, funds shall be considered obligated at the time expenditures are projected or are allocated to the department's regions. Projections shall be based on current and projected caseload growth, current and projected provider rates, staffing requirements for eligibility determination and management of program requirements including data systems management, staffing requirements for administration of the program, contractual and grant obligations and any transfers to other state agencies, and obligations for decategorization or innovation projects.

5. During the 2000-2001 fiscal year, the department shall utilize the moneys deposited in the child care credit fund created in section 237A.28 for state child care assistance, in addition to the moneys allocated for that purpose in this section.

Sec. 15. JUVENILE INSTITUTIONS. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 2000, and ending June 30, 2001, 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:

..... $ 6,305,133
..... FTEs 136.54

It is the intent of the general assembly that beginning in the fiscal year commencing on July 1, 2001, the Iowa juvenile home at Toledo will serve only females. In preparation for this change, the department shall develop service options to appropriately place males for whom placement at the Iowa juvenile home would otherwise be appropriate. The principal option considered in placing males shall be placement at existing state or community-based facilities.

2. For operation of the state training school at Eldora:

..... $ 10,455,336
..... FTEs 229.53

Of the funding appropriated in this subsection, $40,000 is designated for aftercare services for persons who were placed at the state training school at Eldora.

3. During the fiscal year beginning July 1, 2000, the population levels at the state juvenile institutions shall not exceed the population guidelines established under 1990 Iowa Acts, chapter 1239, section 21, as adjusted for additional beds developed at the institutions.

4. A portion of the moneys appropriated in this section shall be used by the state training school and by the Iowa juvenile home for grants for adolescent pregnancy prevention activities at the institutions in the fiscal year beginning July 1, 2000.

5. Within the amounts appropriated in this section, the department may transfer funds as necessary to best fulfill the needs of the institutions provided for in the appropriation.

Sec. 16. CHILD AND FAMILY SERVICES. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 2000, and ending June 30, 2001, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For child and family services reimbursement and associated costs as specifically provided in the reimbursement methodologies in effect on June 30, 2000, except as otherwise expressly authorized by law:

..... $ 108,788,161

In addition to reimbursement methodology changes to implement the recommendations of the child welfare work group established by the legislative council, if the department has completed its review of reimbursement methodologies for child welfare services, has developed options for changing methodologies for child welfare services that are complementary to those being implemented in accordance with the child welfare work group recommendations, and reported the options to the persons designated by this Act to receive reports, the department may implement one or more options on a pilot project basis that affect not more than 50 children during the course of the fiscal year. The department shall adopt rules to implement any reimbursement changes for services paid for in whole or in part under this section.

1. The department may transfer funds appropriated in this section as necessary to pay the nonfederal costs of services reimbursed under medical assistance or the family investment program which are provided to children who would otherwise receive services paid under the appropriation in this section. The department may transfer funds appropriated in this section to the appropriations in this Act for general administration and for field operations for resources necessary to implement and operate the services funded in this section.

2. a. Of the funds appropriated in this section, up to $27,764,744 is allocated as the statewide expenditure target under section 232.143 for group foster care maintenance and services.

* Item veto; see message at end of the Act

b. If at any time after September 30, 2000, annualization of a region's current expenditures indicates a region is at risk of exceeding its group foster care expenditure target under section 232.143 by more than five percent, the department and juvenile court services shall examine all group foster care placements in that region in order to identify those which might be appropriate for termination. In addition, any aftercare services believed to be needed for the children whose placements may be terminated shall be identified. The department and juvenile court services shall initiate action to set dispositional review hearings for the placements identified. In such a dispositional review hearing, the juvenile court shall determine whether needed aftercare services are available and whether termination of the placement is in the best interest of the child and the community.

c. (1) Of the funds appropriated in this section, not more than $7,060,104 is allocated as the state match funding for psychiatric medical institutions for children.

(2) The department may transfer all or a portion of the amount allocated in this lettered paragraph for psychiatric medical institutions for children (PMICs) to the appropriation in this Act for medical assistance.

(3) The department shall work with private providers of PMIC services to develop and implement a plan that shall substantially reduce or eliminate collection of client participation by PMICs. The plan shall be implemented on or before December 1, 2000.

d. Of the funds allocated in this subsection, $1,405,588 is allocated as the state match funding for 50 highly structured juvenile program beds. If the number of beds provided for in this lettered paragraph is not utilized, the remaining funds allocated may be used for group foster care.

e. For the fiscal year beginning July 1, 2000, the requirements of section 232.143 applicable to the juvenile court and to representatives of the juvenile court shall be applicable instead to juvenile court services and to representatives of juvenile court services. The representatives appointed by the department of human services and by juvenile court services to establish the plan to contain expenditures for children placed in group foster care ordered by the court within the budget target allocated to the region shall establish the plan in a manner so as to ensure the moneys allocated to the region under section 232.143 shall last the entire fiscal year. Funds for a child placed in group foster care shall be considered encumbered for the duration of the child's projected or actual length of stay, whichever is applicable.

f. The funding allocation in this subsection provides additional funding, compared to the fiscal year ending June 30, 1999, in an amount equal to the cost of 41 group foster care beds. It is the intent of the general assembly that the additional funding allow for the availability of at least 20 additional beds to be available for placement of females.

3. The department shall continue the goal that not more than 15 percent of the children placed in foster care funded under the federal Social Security Act, Title IV-E, may be placed in foster care for a period of more than 24 months.

4. In accordance with the provisions of section 232.188, the department shall continue the program to decategorize child welfare services in additional counties or clusters of counties.

5. A portion of the funding appropriated in this section may be used for emergency family assistance to provide other resources required for a family participating in a family preservation or reunification project to stay together or to be reunified.

6. Notwithstanding section 234.35, subsection 1, for the fiscal year beginning July 1, 2000, state funding for shelter care paid pursuant to section 234.35, subsection 1, paragraph "h", shall be limited to $7,155,611.

7. Of the funding appropriated in this section, up to $627,616 may be used as determined by the department for any of the following purposes:

a. For general administration of the department to improve staff training efforts.

b. For oversight of termination of parental rights and permanency planning efforts on a statewide basis.

c. For personnel, assigned by the attorney general, to provide additional services relating to termination of parental rights and child in need of assistance cases.

d. For specialized permanency planning field operations staff.

8. The department may adopt administrative rules following consultation with child welfare services providers to implement outcome-based child welfare services pilot projects. The rules may include, but are not limited to, the development of program descriptions, provider licensing and certification standards, reimbursement and payment amounts, contract requirements, assessment and service necessity requirements, eligibility criteria, claims submission procedures, and accountability standards.

9. The department shall continue to make adoption presubsidy and adoption subsidy payments to adoptive parents at the beginning of the month for the current month.

10. Federal funds received by the state during the fiscal year beginning July 1, 2000, 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, shall be used as additional funding for services provided under this section. Moneys received by the department in accordance with the provisions of this subsection shall remain available for the purposes designated until June 30, 2002, notwithstanding section 8.33.

11. The department and juvenile court services shall continue to develop criteria for the department regional administrator and chief juvenile court officer to grant exceptions to extend eligibility, within the funds allocated, for intensive tracking and supervision and for supervised community treatment to delinquent youth beyond age 18 who are subject to release from the state training school, a highly structured juvenile program, or group foster care.

12. Of the moneys appropriated in this section, not more than $313,550 is allocated to provide clinical assessment services as necessary to continue funding of children's rehabilitation services under medical assistance in accordance with federal law and requirements. The funding allocated is the amount projected to be necessary for providing the clinical assessment services.

13. Of the funding appropriated in this section, $3,696,286 shall be used for protective child care assistance.

14. Of the moneys appropriated in this section, up to $3,290,000 is allocated for the payment of the expenses of court-ordered services provided to juveniles which are a charge upon the state pursuant to section 232.141, subsection 4.

a. Notwithstanding section 232.141 or any other provision of law, the amount allocated in this subsection shall be distributed to the judicial districts as determined by the state court administrator. The state court administrator shall make the determination of the distribution amounts on or before June 15, 2000.

b. Each judicial district shall continue the planning group for the court-ordered services for juveniles provided in that district which was established pursuant to 1991 Iowa Acts, chapter 267, section 119. A planning group shall continue to perform its duties as specified in that law. Reimbursement rates for providers of court-ordered evaluation and treatment services paid under section 232.141, subsection 4, shall be negotiated with providers by each judicial district's planning group.

c. The department of human services shall develop policies and procedures to ensure that the funds allocated in this subsection are spent only after all other reasonable actions have been taken to utilize other funding sources and community-based services. The policies and procedures shall be designed to achieve the following objectives relating to services provided under chapter 232:

(1) Maximize the utilization of funds which may be available from the medical assistance program including usage of the early and periodic screening, diagnosis, and treatment (EPSDT) program.

(2) Recover payments from any third-party insurance carrier which is liable for coverage of the services, including health insurance coverage.

(3) Pursue development of agreements with regularly utilized out-of-state service providers which are intended to reduce per diem costs paid to those providers.

d. Notwithstanding chapter 232 or any other provision of law, a district or juvenile court in a department of human services district 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 distribution amount to pay for the service. The chief juvenile court officer shall work with the judicial district planning group to 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 eight chief juvenile court officers shall attempt to anticipate potential surpluses and shortfalls in the distribution amounts and shall cooperatively request the state court administrator to transfer funds between the districts' distribution amounts as prudent.

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 funding allocated in this subsection, not more than $100,000 may be used by the judicial branch for administration of the requirements under this subsection and for travel associated with court-ordered placements which are a charge upon the state pursuant to section 232.141, subsection 4.

15. a. Of the funding appropriated in this section, $4,108,000 is allocated to provide school-based supervision of children adjudicated under chapter 232, including not more than $580,000 from the allocation in this section for court-ordered services. Not more than $15,000 of the funding allocated in this subsection may be used for the purpose of training.

b. To the extent possible, the personnel providing school-based services shall be prepared with training or experience relating to gender-specific programming to best intervene with youth at risk of being found delinquent or determined to be a child in need of assistance.

16. Of the moneys appropriated in this section, up to $50,000 may be used to support the child welfare services work group.

17. Of the funds appropriated in this section, the department shall use $687,876 for day treatment and aftercare services for juvenile females with provider selection made through a request for proposals process. The goal of providing the services is to ensure permanency, safety, and self-sufficiency for juvenile females.

18. The department shall maximize the capacity to draw federal funding under Title IV-E of the federal Social Security Act.

19. The department of human services shall convene a work group to determine the most appropriate methodology and manner for payment for services provided by psychiatric medical institutions for children (PMICs) funded under this section. The work group shall include representatives of providers of such services, shall be geographically balanced, and shall be representative of both large and small providers. The work group's review shall include, at a minimum, retaining the current reimbursement methodology, providing reimbursement through the Iowa plan for behavioral health, providing reimbursement and supervision through the rehabilitative treatment and supported services program, or incorporating PMIC services into a revised service system developed pursuant to the recommendations of the legislative council's child welfare services work group. A priority in any determination shall be ensuring that the current level of federal financial participation is maintained at the maximum level. The department and the work group shall appear in January 2001 before the joint appropriations subcommittee on human services to discuss the work group findings and recommendations.

20. Of the funds appropriated in this section, $118,642 is allocated as the state match for the federal safe and stable families grant available under Title IV-B of the federal Social Security Act and this allocation shall not be used, transferred, expended, or encumbered for any other purpose.

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* Item veto; see message at end of the Act

21. a. Notwithstanding section 234.39, subsection 5, and notwithstanding section 8.33, $131,000 of the moneys appropriated in 1999 Iowa Acts, chapter 203, section 15, subsection 9, for the subsidized guardianship program shall not revert at the close of the fiscal year but shall remain available in the succeeding fiscal year to be expended for the purposes of this section.

b. Notwithstanding section 8.33, any moneys transferred pursuant to 1999 Iowa Acts, chapter 203, section 15, subsection 20, paragraph "c", remaining unexpended or unobligated at the close of the fiscal year shall not revert, but shall remain available in the succeeding fiscal year to be expended to complete the child welfare results-based reporting mechanism.

22. Any unanticipated federal funding that is received during the fiscal year due to improvements in the hours counted by the judicial branch under the claiming process for federal Title IV-E funding are appropriated to the department to be used for additional or expanded services and support for court-ordered services pursuant to section 232.141. Notwithstanding section 8.33, moneys appropriated in this subsection that remain unencumbered or unobligated at the close of the fiscal year shall not revert but shall remain available for expenditure for the purposes designated until the close of the succeeding fiscal year.

Sec. 17. COMMUNITY-BASED PROGRAMS — ADOLESCENT PREGNANCY PREVENTION. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 2000, and ending June 30, 2001, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For community-based programs, on the condition that family planning services are funded, including salaries, support, maintenance, and miscellaneous purposes and for not more than the following full-time equivalent positions:

..... $ 280,228
..... FTE 1.00

1. Funds appropriated in this section shall be used to provide adolescent pregnancy prevention grants which comply with the requirements provided in 1997 Iowa Acts, chapter 208, section 14, subsections 1 and 2, and shall emphasize programs which target the middle school level.

2. It is the intent of the general assembly that the department of human services and the Iowa department of public health shall continue to identify existing abstinence education or community-based programs which comply with the requirements established in section 912, subchapter V, of the federal Social Security Act, as codified in 42 U.S.C. § 701 et seq. for the matching of federal funds.

Sec. 18. FAMILY SUPPORT SUBSIDY PROGRAM. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 2000, and ending June 30, 2001, the following amount, or so much thereof as is necessary, to be used by the division of children and family services for the purpose designated:

For the family support subsidy program:

..... $ 2,028,215

The department may use up to $267,000 of the moneys appropriated in this section to continue the children-at-home program in current counties, of which not more than $20,000 shall be used for administrative costs.

Sec. 19. CONNER DECREE. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 2000, and ending June 30, 2001, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For building community capacity through the coordination and provision of training opportunities in accordance with the consent decree of Conner v. Branstad, No. 4-86-CV-30871 (S.D. Iowa, July 14, 1994):

..... $ 46,000

Sec. 20. MENTAL HEALTH INSTITUTES. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 2000, and ending June 30, 2001, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. For the state mental health institute at Cherokee for salaries, support, maintenance, and miscellaneous purposes and for not more than the following full-time equivalent positions:

..... $ 12,807,425
..... FTEs 248.44

2. For the state mental health institute at Clarinda for salaries, support, maintenance, and miscellaneous purposes and for not more than the following full-time equivalent positions:

..... $ 7,220,487
..... FTEs 138.59

3. For the state mental health institute at Independence for salaries, support, maintenance, and miscellaneous purposes and for not more than the following full-time equivalent positions:

..... $ 17,497,584
..... FTEs 346.71

The state mental health institute at Independence shall continue the 30 psychiatric medical institution for children (PMIC) beds authorized in section 135H.6, in a manner which results in no net state expenditure amount in excess of the amount appropriated in this subsection. Counties are not responsible for the costs of PMIC services described in this subsection. Subject to the approval of the department, with the exception of revenues required under section 249A.11 to be credited to the appropriation in this Act for medical assistance, revenues attributable to the PMIC beds described in this subsection for the fiscal year beginning July 1, 2000, and ending June 30, 2001, shall be deposited in the institute's account, including but not limited to any of the following revenues:

a. The federal share of medical assistance revenue received under chapter 249A.

b. Moneys received through client participation.

c. Any other revenues directly attributable to the PMIC beds.

4. For the state mental health institute at Mount Pleasant for salaries, support, maintenance, and miscellaneous purposes and for not more than the following full-time equivalent positions:

..... $ 5,357,453
..... FTEs 109.47

a. Funding is provided in this subsection for the mental health institute at Mount Pleasant to continue the dual diagnosis mental health and substance abuse program on a net budgeting basis in which 50 percent of the actual per diem and ancillary services costs are chargeable to the patient's county of legal settlement or as a state case, as appropriate. Subject to the approval of the department, revenues attributable to the dual diagnosis program for the fiscal year beginning July 1, 2000, and ending June 30, 2001, shall be deposited in the institute's account, including but not limited to all of the following revenues:

(1) Moneys received by the state from billings to counties under section 230.20.

(2) Moneys received from billings to the Medicare program.

(3) Moneys received from a managed care contractor providing services under contract with the department or any private third-party payer.

(4) Moneys received through client participation.

(5) Any other revenues directly attributable to the dual diagnosis program.

b. The following additional provisions are applicable in regard to the dual diagnosis program:

(1) A county may split the charges between the county's mental health, mental retardation, and developmental disabilities services fund and the county's budget for substance abuse expenditures.

(2) If an individual is committed to the custody of the department of corrections at the time the individual is referred for dual diagnosis treatment, the department of corrections shall be charged for the costs of treatment.

(3) Prior to an individual's admission for dual diagnosis treatment, the individual shall have been screened through a county's single entry point process to determine the appropriateness of the treatment.

(4) A county shall not be chargeable for the costs of treatment for an individual enrolled in and authorized by or decertified by a managed behavioral care plan under the medical assistance program.

5. Within the funds appropriated in this section, the department may transfer funds as necessary to best fulfill the needs of the institutions provided for in the appropriation.

6. As part of the discharge planning process at the state mental health institutes, the department shall provide assistance in obtaining eligibility for federal supplemental security income (SSI) to those individuals whose care at a state mental health institute is the financial responsibility of the state or a county.

*7. *Each state mental health institute shall continue the net budgeting accounting test of managing revenues and expenditures attributable to the mental health institute in a manner that permits the net state expenditure amount to be determined. Each mental health institute shall submit a status report in October 2000 to the governor and to the persons required to be submitted reports by this Act. The status report shall identify advantages and disadvantages of utilizing the net budgeting approach and any changes in policy or statute recommended to improve implementation of the approach.**

Sec. 21. STATE HOSPITAL-SCHOOLS. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 2000, and ending June 30, 2001, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. For the state hospital-school at Glenwood for salaries, support, maintenance, and miscellaneous purposes:

..... $ 2,504,791

2. For the state hospital-school at Woodward for salaries, support, maintenance, and miscellaneous purposes:

..... $ 1,709,949

3. a. The department shall continue operating the state hospital-schools at Glenwood and Woodward with a net general fund appropriation. The amounts allocated in this section are the net amounts of state moneys projected to be needed for the state hospital-schools. The purposes of operating with a net general fund appropriation are to encourage the state hospital-schools to operate with increased self-sufficiency, to improve quality and efficiency, and to support collaborative efforts between the state hospital-schools and counties and other funders of services available from the hospital-schools. The state hospital-schools shall not be operated under the net appropriation in a manner which results in a cost increase to the state or cost shifting between the state, the medical assistance program, counties, or other sources of funding for the state hospital-schools. Moneys allocated in subsection 1 may be used throughout the fiscal year in the manner necessary for purposes of cash flow management, and for purposes of cash flow management the state hospital-schools may temporarily draw more than the amount allocated, provided the amount allocated is not exceeded at the close of the fiscal year.

b. Subject to the approval of the department, except for revenues under section 249A.11, revenues attributable to the state hospital-schools for the fiscal year beginning July 1, 2000, shall be deposited into each state hospital-school's account, including but not limited to all of the following:

(1) Moneys received by the state from billings to counties under section 222.73.

(2) The federal share of medical assistance revenue received under chapter 249A.

(3) Federal Medicare program payments.

* Item veto; see message at end of the Act

(4) Moneys received from client financial participation.

(5) Other revenues generated from current, new, or expanded services which the state hospital-school is authorized to provide.

c. For the purposes of allocating the salary adjustment fund moneys appropriated in another Act, the state hospital-schools shall be considered to be funded entirely with state moneys.

d. Notwithstanding section 8.33, up to $500,000 of a state hospital-school's revenues that remain unencumbered or unobligated at the close of the fiscal year shall not revert but shall remain available to be used in the succeeding fiscal year.

4. Within the funds appropriated in this section, the department may transfer funds as necessary to best fulfill the needs of the institutions provided for in the appropriation.

5. The department may continue to bill for state hospital-school 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 hospital-schools.

6. The state hospital-schools may expand the time limited assessment and respite services during the fiscal year.

7. If the department's administration and the department of management concur with a finding by a state hospital-school'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 hospital-school do not include the position classification desired to be filled, the hospital-school's superintendent may reclassify any vacant position as necessary to fill the desired position. The superintendents of the hospital-schools 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.

Sec. 22. MENTAL ILLNESS SPECIAL SERVICES. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 2000, and ending June 30, 2001, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For mental illness special services:

..... $ 121,220

1. The department and the Iowa finance authority shall continue the financing for existing community-based facilities and the financing for the development of affordable community-based housing facilities. The department shall assure that clients are referred to the housing as it is developed.

2. The funds appropriated in this section are to provide funds for construction and start-up costs to develop community living arrangements to provide for persons with mental illness who are homeless. These funds may be used to match federal Stewart B. McKinney Homeless Assistance Act grant funds.

Sec. 23. SPECIAL NEEDS GRANTS. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 2000, and ending June 30, 2001, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

To provide special needs grants to families with a family member at home who has a developmental disability or to a person with a developmental disability:

..... $ 53,212

Grants must be used by a family to defray special costs of caring for the family member to prevent out-of-home placement of the family member or to provide for independent living costs. The grants may be administered by a private nonprofit agency which serves people statewide provided that no administrative costs are received by the agency.

Sec. 24. MI/MR/DD STATE CASES. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 2000, and ending June 30, 2001, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. For purchase of local services for persons with mental illness, mental retardation, and developmental disabilities where the client has no established county of legal settlement:
..... $ 13,308,845

If a county has a county management plan which is approved by the director of human services pursuant to section 331.439, the services paid for under this section are exempt from the department's purchase of service system requirements. The department shall adopt rules to implement the provisions of this paragraph.

*2. *For transfer to the appropriation in this Act for medical assistance to be used for payment of the state portion of the nonfederal share of medical assistance reimbursement for services provided to eligible persons by certain qualified intermediate care facilities for persons with mental retardation (ICFMR) in accordance with this subsection:*
..... $ *300,000*

*For the purposes of this subsection, "eligible persons" means persons with a brain or head injury who are determined by the Iowa foundation for medical care to meet entrance requirements for services at the ICFMR level. The reimbursement rate for services provided to eligible persons by those qualified ICFMRs established and issued a certificate of need by the health facilities council, on or before June 30, 1999, for the primary purpose of serving persons with a head or brain injury, shall be the facility's actual cost, as determined from the annual actual cost reports submitted to the department. The cost reports shall be subject to annual audit by the department. Responsibility for payment of the nonfederal share of reimbursement paid for services provided to eligible persons shall be as follows: the county of legal settlement is responsible for an amount equal to the nonfederal share of the 80th percentile of ICFMR services and the state is responsible for the remainder.**

Sec. 25. MENTAL HEALTH AND DEVELOPMENTAL DISABILITIES — COMMUNITY SERVICES FUND. There is appropriated from the general fund of the state to the mental health and developmental disabilities community services fund created in section 225C.7 for the fiscal year beginning July 1, 2000, and ending June 30, 2001, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For mental health and developmental disabilities community services in accordance with this Act:
..... $ 19,560,000

1. Of the funds appropriated in this section, $19,530,000 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.

* Item veto; see message at end of the Act

4. a. Funding appropriated for purposes of the federal social services block grant is allocated for distribution to counties for local purchase of services for persons with mental illness or mental retardation or other developmental disability.

b. The funds allocated in this subsection shall be expended by counties in accordance with the county's approved county management plan. A county without an approved county management plan shall not receive allocated funds until the county's management plan is approved.

c. The funds provided by this subsection shall be allocated to each county as follows:

(1) Fifty percent based upon the county's proportion of the state's population of persons with an annual income which is equal to or less than the poverty guideline established by the federal office of management and budget.

(2) Fifty percent based upon the amount provided to the county for local purchase of services in the preceding fiscal year.

5. A county is eligible for funds under this section if the county qualifies for a state payment as described in section 331.439.

Sec. 26. PERSONAL ASSISTANCE. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 2000, and ending June 30, 2001, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For continuation of a pilot project for the personal assistance services program in accordance with this section:

..... $ 364,000

1. The funds appropriated in this section shall be used to continue the pilot project for the personal assistance services program under section 225C.46 in an urban and a rural area. Not more than $36,400 shall be used for administrative costs. The pilot project and any federal home and community-based waiver developed under the medical assistance program shall not be implemented in a manner which would require additional county or state costs for assistance provided to an individual served under the pilot project or the waiver.

2. It is the intent of the general assembly that for any new applicants for personal assistance, priority shall be given to providing assistance to individuals for education, job training, and other forms of employment support. It is also the intent of the general assembly that if other programs become available which provide similar services, current recipients of personal assistance for whom these similar services are appropriate shall be assisted in attaining eligibility for these programs.

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 to provide personal assistance payments until the close of the succeeding fiscal year.

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, 2000, and ending June 30, 2001, 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 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:

..... $ 1,179,178

..... FTEs 20.00

2. Notwithstanding section 8.33, $250,000 of the moneys appropriated in 1999 Iowa Acts, chapter 203, section 30, that remain unexpended or unobligated at the close of the fiscal year shall not revert but shall remain available in the succeeding fiscal year to be used for the purposes of 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, 2000, and ending

June 30, 2001, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. For field operations, including salaries, support, maintenance, and miscellaneous purposes and for not more than the following full-time equivalent positions:

..... $ 44,795,000
..... FTEs 1,921.50

Priority in filling full-time equivalent positions shall be given to those positions related to child protection services.

The amount appropriated in this section includes increased funding of $147,454 to address staffing issues in regard to child abuse assessment staff, social workers, and support staff performing related functions and for increased activities to improve cooperation between field staff, law enforcement, county attorneys, and mandatory reporters in addressing reports of child abuse.

2. For regional offices, including salaries, support, maintenance, and miscellaneous purposes and for not more than the following full-time equivalent positions:

..... $ 5,659,370
..... FTEs 154.16

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, 2000, and ending June 30, 2001, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For general administration, including salaries, support, maintenance, and miscellaneous purposes and for not more than the following full-time equivalent positions:

..... $ 14,862,874
..... FTEs 366.00

1. Of the funds appropriated in this section, $57,000 is allocated for the prevention of disabilities policy council established in section 225B.3.

2. Of the funds appropriated in this section, $129,971 for the fiscal year beginning July 1, 2000, shall be transferred to the state university of Iowa for the university-affiliated program for the support of Iowa creative employment options (CEO).

3. If an expenditure reduction or other cost-saving measure is deemed necessary to maintain expenditures within the amount appropriated to the department in this section, the department shall not implement the reduction or other measure in a manner which reduces service funding for disability rehabilitation programs, including but not limited to, statewide supported employment programs.

*4. *The number of full-time equivalent positions authorized in this section includes a reduction of all but three of the full-time equivalent positions previously assigned to the state-county assistance team. One of the remaining full-time equivalent positions shall provide staffing services to the state-county management committee.**

*5. *The general assembly is supportive of the department's stated purposes in its efforts to review the services administered by the department and the reimbursement methodologies for those services. The general assembly anticipates the department continuing its review and consultation activities during the 2000 legislative interim in order to submit recommendations and proposals for legislative consideration during the 2001 legislative session and the department shall not implement changes in the reimbursement methodologies with express authorization in law.**

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, 2000, and ending June 30, 2001, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For development and coordination of volunteer services:

..... $ 118,250

* Item veto; see message at end of the Act

Sec. 31. MEDICAL ASSISTANCE, STATE SUPPLEMENTARY ASSISTANCE, AND SOCIAL SERVICE PROVIDERS REIMBURSED UNDER THE DEPARTMENT OF HUMAN SERVICES.

1. a. For the fiscal year beginning July 1, 2000, the rate for skilled nursing facilities shall remain at the rates in effect on June 30, 2000.

b. For the fiscal year beginning July 1, 2000, the dispensing fee for pharmacists shall remain at the rate in effect on June 30, 2000. The reimbursement policy for drug product costs shall be in accordance with federal requirements.

c. For the fiscal year beginning July 1, 2000, reimbursement rates for inpatient and outpatient hospital services shall remain at the rates in effect on June 30, 2000. The department shall continue the outpatient hospital reimbursement system based upon ambulatory patient groups implemented pursuant to 1994 Iowa Acts, chapter 1186, section 25, subsection 1, paragraph "f". In addition, the department shall continue the revised medical assistance payment policy implemented pursuant to that paragraph to provide reimbursement for costs of screening and treatment provided in the hospital emergency room if made pursuant to the prospective payment methodology developed by the department for the payment of outpatient services provided under the medical assistance program.

d. 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. Reimbursement rates for home health agencies shall remain at the rates in effect on June 30, 2000.

f. Federally qualified health centers shall receive cost-based reimbursement for 100 percent of the reasonable costs for the provision of services to recipients of medical assistance.

g. Beginning July 1, 2000, the reimbursement rates for dental services shall remain at the rates in effect on June 30, 2000.

h. Beginning July 1, 2000, the reimbursement rates for community mental health centers shall be increased by 16.63 percent over the rates in effect on June 30, 2000.

i. For the fiscal year beginning July 1, 2000, unless otherwise specified in this Act, all noninstitutional medical assistance provider reimbursement rates shall remain at the rates in effect on June 30, 2000.

2. a. The basis for establishing the maximum medical assistance reimbursement rate for nursing facilities shall be the 70th percentile of facility costs as calculated from the June 30, 1999, unaudited compilation of cost and statistical data submitted by each facility on medical assistance cost reports. At such time as the department implements a transitional case-mix reimbursement methodology pursuant to 2000 Iowa Acts, Senate File 2193,[2] nursing facilities shall be reimbursed in accordance with the transitional payment system. In developing the case-mix reimbursement methodology, the department shall work with nursing facilities and patient advocates in examining administrative costs.

b. Nursing facilities reimbursed under the medical assistance program shall continue to submit cost reports and additional documentation as required by rule.

c. The cost report required to be submitted by rule by nursing facilities reimbursed under the medical assistance program shall also include a line itemization of expenses attributable to the home or principal office or headquarters of the nursing facility, including but not limited to home-office costs and management fees, within the administrative cost line item.

*d. *The organizations representing certified nurse aides and nursing facilities and other providers of services employing certified nurse aides are requested to discuss how nursing facilities and the other providers can improve the ongoing training, communication skills development, mentoring, and other activities intended to enhance the expertise of certified nurse aides. It is the intent of the general assembly that the organizations involved with the discussions will make a presentation to the joint appropriations subcommittee on human services during January 2001 concerning their discussions and plans for improvements.**

[2] Chapter 1004 herein

*Item veto; see message at end of the Act

3. For the fiscal year beginning July 1, 2000, the maximum cost reimbursement rate for residential care facilities reimbursed by the department shall not be less than $24.26 per day for the time period of July 1, 2000, through June 30, 2001. The flat reimbursement rate for facilities electing not to file semiannual cost reports shall not be less than $17.36 per day for the time period of July 1, 2000, through June 30, 2001.

4. For the fiscal year beginning July 1, 2000, the maximum reimbursement rate for providers reimbursed under the in-home health-related care program shall not be less than $466.49 per month for the time period of July 1, 2000, through June 30, 2001.

5. 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, 1999.

6. Notwithstanding section 234.38, in the fiscal year beginning July 1, 2000, the foster family basic daily maintenance rate and the maximum adoption subsidy rate for children ages 0 through 5 years shall be $14.00, the rate for children ages 6 through 11 years shall be $14.78, the rate for children ages 12 through 15 years shall be $16.53, and the rate for children ages 16 and older shall be $16.53.

7. For the fiscal year beginning July 1, 2000, the maximum reimbursement rates for adoption and independent living services shall remain at the rates in effect on June 30, 2000. The maximum reimbursement rates for other social service providers shall remain at the rates in effect on June 30, 2000. However, the rates may be adjusted under any of the following circumstances:

a. If a new service was added after June 30, 2000, 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.

c. The department revises the reimbursement rates as part of the changes in the mental health and developmental disabilities services system initiated pursuant to 1995 Iowa Acts, chapter 206, and associated legislation.

8. 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 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.

9. For the fiscal year beginning July 1, 2000, the reimbursement rates for rehabilitative treatment and support services providers shall remain at the rates in effect on June 30, 2000.

10. For the fiscal year beginning July 1, 2000, the combined service and maintenance components of the reimbursement rate paid to a shelter care provider shall be based on the cost report submitted to the department. The maximum reimbursement rate shall be $79.70 per day. If the department would reimburse the provider at less than the maximum rate but the provider's cost report justifies a rate of at least $79.70, the department shall readjust the provider's reimbursement rate to the maximum reimbursement rate.

11. For the fiscal year beginning July 1, 2000, the department shall calculate reimbursement rates for intermediate care facilities for persons with mental retardation at the 80th percentile.

12. For the fiscal year beginning July 1, 2000, for child care providers, the department shall set provider reimbursement rates based on the rate reimbursement survey completed in December 1998. The department shall set rates in a manner so as to provide incentives for a nonregistered provider to become registered.

13. Effective July 1, 2000, the maximum reimbursement rate for psychiatric medical institutions for children (PMICs) shall be increased to $147.20 per day, based on per day rates for actual costs on June 30, 2000.

14. For the fiscal year beginning July 1, 2000, 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, as enacted in 2000 Iowa Acts, Senate File 2193,[3] or as specified in appropriations from the tobacco settlement fund created in section 12.65.

15. The department may adopt emergency rules to implement this section.

Sec. 32. MOTOR VEHICLE LICENSE REINSTATEMENT PENALTY — DEPOSIT AND APPROPRIATION. Notwithstanding the deposit provisions of sections 321.218A and 321A.32A, moneys collected during the fiscal year beginning July 1, 2000, and ending June 30, 2001, by the state department of transportation pursuant to those sections shall be deposited to the credit of the department of human services for the fiscal year beginning July 1, 2000, and ending June 30, 2001, and are appropriated as follows:

1. An amount equal to ten percent of the costs of the establishment, improvement, operation, and maintenance of county or multicounty juvenile detention homes in the fiscal year beginning July 1, 1999. Moneys appropriated in 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, 1999. Notwithstanding section 232.142, subsection 3, the financial aid payable by the state under that provision for the fiscal year beginning July 1, 2000, 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 168,000 and 175,000 for implementation of the county's runaway treatment plan under section 232.195:

..... $ 80,000

3. For grants to counties implementing a runaway treatment plan under section 232.195.

4. The remainder for additional allocations to county or multicounty juvenile detention homes, in accordance with the distribution requirements of subsection 1.

Sec. 33. TRANSFER AUTHORITY. Subject to the provisions of section 8.39, for the fiscal year beginning July 1, 2000, 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, the department of human services may transfer within or between any of the appropriations made in this Act and appropriations in law for the federal social services block grant to the department for the following purposes, provided that the combined amount of state and federal temporary assistance for needy families block grant funding for each appropriation remains the same before and after the transfer:

1. For the family investment program.
2. For emergency assistance.
3. For child care assistance.
4. For child and family services.
5. For field operations.
6. For general administration.
7. MH/MR/DD/BI community services (local purchase).

This section shall not be construed to prohibit existing state transfer authority for other purposes.

Sec. 34. FRAUD AND RECOUPMENT ACTIVITIES. During the fiscal year beginning July 1, 2000, notwithstanding the restrictions in section 239B.14, recovered moneys generated through fraud and recoupment activities are appropriated to the department of human services to be used for additional fraud and recoupment activities performed by the department of human services or the department of inspections and appeals, and the department of

[3] Chapter 1004 herein

human services may add not more than five full-time equivalent positions, in addition to those authorized in this Act, subject to both of the following conditions:

1. The director of human services determines that the investment can reasonably be expected to increase recovery of assistance paid in error, due to fraudulent or nonfraudulent actions, in excess of the amount recovered in the fiscal year beginning July 1, 1997.

2. The amount expended for the additional fraud and recoupment activities shall not exceed the amount of the projected increase in assistance recovered.

Sec. 35. FINANCIAL ASSISTANCE SERVICES.

1. For purposes of this section, "financial assistance services" means services or other assistance provided under one or more of the following programs administered by the department of human services: family investment program, PROMISE JOBS program, medical assistance program, food stamp program, state child care assistance program, refugee cash assistance program, emergency assistance program, and child support recovery program.

2. During the fiscal year beginning July 1, 2000, and ending June 30, 2001, the department of human services may continue to conduct a pilot program or pilot programs for provisions of financial assistance services.

3. Any pilot program conducted in accordance with this section shall be designed to meet one or more of the following financial assistance services goals:

a. A reduction in paperwork for applicants and recipients of services, or staff, or both.

b. Streamlining or expediting the eligibility determination process, to decrease the length of time it takes to inform applicants for financial assistance services as to the disposition of their request for the services.

c. Streamlining or expediting the referral process for family investment program applicants and recipients to other financial assistance services such as PROMISE JOBS or child support recovery, so that referrals can be initiated in a more timely manner in order to help move applicants and recipients more quickly to economic self-sufficiency or toward reduced reliance on government assistance.

d. Improved coordination of the management of financial assistance services as applicants for and recipients of the services work toward economic self-sufficiency.

e. Identification of policies, procedures, and practices that could be altered or eliminated without materially affecting the desired results for the family assistance services.

4. Any pilot program conducted in accordance with this section is subject to the following limitations and parameters:

a. Notwithstanding any administrative rule, that is not based in federal law, the department may alter policies, procedures, and practices to waive the administrative rule, that are based in state law, provided that the alterations do not decrease an applicant's or recipient's choice of, or ability to obtain, financial assistance services from the department in comparison with the financial assistance services that would otherwise be available. The department may operate one or more pilot projects under this paragraph, in not more than fourteen counties.

b. If the department obtains a waiver of federal law or regulation, the department may alter policies, procedures, and practices that are based in federal law, provided that the alterations do not decrease an applicant's or recipient's choice of, or ability to obtain, financial assistance services from the department in comparison with the financial assistance services that would otherwise be available. The department may operate one or more projects under this paragraph, in not more than fourteen counties.

c. In order to facilitate rapid implementation, except as provided in paragraph "d", any pilot program authorized under this section is exempt from the rulemaking procedures and rulemaking requirements of chapter 17A. However, following development of the pilot program, the department shall provide a list of the laws or rules being waived to the chairpersons and ranking members of the joint appropriations subcommittee on human services,

the administrative rules review committee, the administrative rules coordinator, the legislative fiscal bureau, and the legislative service bureau. In implementing a pilot program under this section, the department shall take steps to make applicants and recipients of services aware of their choices, expectations, rights, and responsibilities.

d. The department shall adopt emergency rules establishing a framework for the pilot projects implemented under this section. The rules shall identify the participating counties, the maximum duration of each pilot project, and generally describe the scope and nature of each pilot project. Within this framework, the department retains broad discretion to revise a pilot project without further rulemaking describing the revision.

Sec. 36. CHILD PROTECTION EVALUATION. The department shall fulfill the requirements of 1997 Iowa Acts, chapter 176, section 23, and 1999 Iowa Acts, chapter 203, section 45, for an independent evaluation of the child protection system by including the evaluation elements in its independent review contracted for in the Spring of 2000.

Sec. 37. 1991 Iowa Acts, chapter 169, section 9, as amended by 1996 Iowa Acts, chapter 1071, section 1, is repealed.

On or before December 15, 2000, the prevention of disabilities policy council shall submit a report to the governor and the general assembly providing findings and recommendations regarding the activities and duties of the commission and the need for its continuation.

Sec. 38. 1999 Iowa Acts, chapter 208, section 1, unnumbered paragraphs 2 and 3, and subsection 4, are amended to read as follows:

For distribution to counties of the county mental health, mental retardation, and developmental disabilities allowed growth factor adjustment, in accordance with section 331.438, subsection 2, and section 331.439, subsection 3, and chapter 426B:

..... $ ~~21,773,602~~
20,982,446

The funding appropriated in this section is the allowed growth factor adjustment ~~of 1.57 percent~~ for fiscal year 2000-2001, and is allocated as follows:

4. For deposit in the risk pool created in the property tax relief fund pursuant to section 426B.5, subsection 3:

..... $ ~~2,000,000~~
1,208,844

Sec. 39. 2000 Iowa Acts, Senate File 2193,[4] section 20, subsection 3, unnumbered paragraph 1, is amended to read as follows:

To implement nursing facility provider reimbursement at the seventieth percentile of facility costs as calculated from the June 30, 2000, unaudited compilation of cost and statistical data submitted by each facility on medical assistance cost reports and to implement case-mix reimbursement methodology changes:

..... $ 17,750,000

Sec. 40. NEW SECTION. 225B.8 REPEAL.

This chapter is repealed July 1, 2001.

Sec. 41. Section 249A.3, subsection 1, paragraph k, Code Supplement 1999, is amended to read as follows:

k. Is a pregnant woman or infant whose income is more than the limit prescribed under the federal Medicare Catastrophic Coverage Act of 1988, Pub. L. No. 100-360, § 302, but not more than ~~one~~ two hundred ~~eighty-five~~ percent of the federal poverty level as defined by the most recently revised poverty income guidelines published by the United States department of health and human services.

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* Item veto; see message at end of the Act

[4] Chapter 1004 herein

Sec. 42. ARLENE DAYHOFF EDUCATIONAL COMPLEX.

1. The general assembly makes the following findings:

a. That Arlene H. Dayhoff recognized the important role of good educational and recreational facilities in maintaining the quality of the state training school's work with this state's most troubled youth and worked tirelessly for approval of new facilities.

b. That Arlene H. Dayhoff has the distinction of serving during 1987-1997 as chairperson of the council on human services, the primary policymaking body for the department of human services, and having the longest tenure of anyone in that office.

c. That Arlene H. Dayhoff is known for her active life in service activity with her twenty-three years of employment in the field of nursing and as a volunteer and board member with many human services and health endeavors, including St. Luke's hospital and hospital foundation, Iowa commission for the blind, American red cross, Linn county association for mental health, and Linn county retarded citizens, and has been nationally recognized for her leadership by the national governors' association distinguished service award.

d. That following her tenure on the council on human services, Arlene H. Dayhoff continued her commitment to troubled children by serving as co-chairperson of the legislative council's child welfare work group from the work group's creation in November 1997 through the present time.

e. That it is fitting to recognize Arlene H. Dayhoff's many contributions to improving the lives of children with the dedication of the new educational and recreational facilities at the state training school in her name.

2. The educational and recreational facilities to be dedicated in the spring of 2001 at the state training school in Eldora, Iowa, are named the "Arlene Dayhoff Educational Complex" in honor of Arlene H. Dayhoff and an appropriate commemorative plaque shall be placed near the entrance of the educational complex in recognition of Arlene Dayhoff and the outstanding contribution she has made to the state training school and the state of Iowa.

3. The state training school shall name any other newly constructed facilities to be dedicated at the state training school during the fiscal year beginning July 1, 1999, or July 1, 2000, as deemed appropriate by the state training school administration to properly recognize individuals who have made significant contributions to the juvenile justice system in general or the state training school in particular.

Sec. 43. SUBSIDIZED GUARDIANSHIP — RULES — CONTINGENCY — RETROACTIVITY. The rules adopted pursuant to 441 IAC 204 relating to the subsidized guardianship program shall not be applicable until such time as funding is appropriated after July 1, 2000, for this purpose by the general assembly. This provision is retroactively applicable to April 1, 2000.

Sec. 44. EMERGENCY RULES. If specifically authorized by a provision of this Act, the department of human services or the mental health and developmental disabilities commission may adopt administrative rules under section 17A.4, subsection 2, and section 17A.5, subsection 2, paragraph "b", to implement the provisions and the rules shall become effective immediately upon filing, unless the effective date is delayed by the administrative rules review committee, notwithstanding section 17A.4, subsection 5, and section 17A.8, subsection 9, or a later effective date is specified in the rules. Any rules adopted in accordance with this section shall not take effect before the rules are reviewed by the administrative rules review committee. 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. 45. 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 human services, the legislative fiscal bureau, the legislative service bureau, and to the caucus staffs on or before the dates specified for submission of the reports or information.

Sec. 46. EFFECTIVE DATES. The following provisions of this Act, being deemed of immediate importance, take effect upon enactment:

1. Section 1, relating to the social services block grant supplementation.

*2. *Section 4, subsection 1, paragraph "f", relating to electronic benefits transfer contracting.*

3. *Section 8, subsection 15, relating to the pilot project for continuous eligibility under the medical assistance program.**

4. Section 16, subsection 2, paragraph "e", relating to requirements of section 232.143, for the 2000-2001 fiscal year.

5. Section 16, subsection 14, paragraph "a", relating to determining allocation of court-ordered services funding.

6. Section 16, subsection 21, relating to nonreversion of certain funding appropriated in 1999 Iowa Acts, chapter 203.

7. Section 27, subsection 2, relating to nonreversion of moneys appropriated in 1999 Iowa Acts, chapter 203, section 30.

*8. *Section 36, relating to an independent evaluation of the child protection system.**

9. Sections 37 and 40, repealing 1991 Iowa Acts, chapter 169, section 9, as amended, and enacting new Code section 225B.8.

10. Section 42, subsection 3, authorizing the state training school administration to name certain facilities to be dedicated during fiscal year 1999-2000 or fiscal year 2000-2001.

11. Section 43, relating to the applicability of certain administrative rules involving subsidized guardianship.

Approved May 17, 2000, with exceptions noted.

THOMAS J. VILSACK, *Governor*

Dear Mr. Secretary:

I hereby transmit Senate File 2435, an Act relating to appropriations for the Department of Human Services and including other provisions and appropriations involving human services and health care, providing effective dates, and providing for retroactive applicability.

The human services appropriations bill is a vitally important measure for literally hundreds of thousands of Iowans. For many of our neighbors, family members, and friends, it provides the services they most need to assist families, assure basic health care for children, nursing home care for senior citizens, treatment for those with mental illness, and assistance for those with mental retardation or developmental disabilities.

I am grateful that we, legislators and myself, were able to work together in several areas to bring about funding for needed services. This includes an additional $650,000 to expand the number of school liaisons to an additional 25 schools and expand the family support subsidy program so that an additional 50 youngsters with mental retardation may remain in their own homes. Senate File 2435 also includes the addition of $3.55 million to assist low income, working parents with child care and an additional $2.55 million to community empowerment programs to assist communities with their efforts in child care and helping families reach self sufficiency.

While I am supportive of some efforts this Legislature made, Senate File 2435 also provides funding that is $3.6 million below the level that I recommended at the beginning of the session. It also contains sections that are either flawed or negatively impact the Department

* Item veto; see message at end of the Act

of Human Services efforts to carry out its duties in an effective manner. Therefore, I am unable to approve Senate File 2435 in its entirety.

Senate File 2435 is, therefore, approved on this date with the following exceptions, which I hereby disapprove.

I am unable to approve the item designated as Section 4, subsection 1, paragraph f in its entirety. This language would put restrictions on implementing electronic benefit transfer in the most cost effective manner as required by federal regulations.

I am unable to approve the designated portion of Section 8, subsection 11. This item purports to encourage the department to implement an adult mental health rehabilitation option under the medical assistance program. While I am supportive of this effort, this language relates to scheduling meetings for the next session and may have the opposite effect of the intended language by slowing down the process. For this reason, I am unable to support the designated portion of this item.

I am unable to approve the item designated as Section 8, subsection 15 in its entirety. This language proposes that the department pursue options to provide additional medical services that are not permitted under federal regulations to adults with special needs. While I am sympathetic to the intent of this section, no funding has been provided for this purpose. Without adequate resources, additional options are not viable.

I am unable to approve the item designated as Section 8, subsection 17 in its entirety. This language directs the department to study and provide options for personal assistance services. This same topic is addressed in subsection 14 which directs the Department of Human Services to pursue options for personal assistance services. The language in subsection 17 is very prescriptive, and additional funds were not added to the Medical Assistance program for this purpose. Striking this language allows us to retain the proposed $100,000 for its original intended purpose of providing services to people for their health needs, rather than diverting these dollars to this proposed study.

I am unable to approve the item designated as Section 11, subsection 5 in its entirety. Here again, the bill contains language scheduling a meeting for the next legislative session. In this case, it applies to community action agencies that are not part of the department.

I am unable to approve the item designated as Section 16, unnumbered paragraph three. This item supports the department's initiatives in the area of revising reimbursement methodologies. However, it ties the language to a methodology that has been pending and may be under consideration by the federal government for an undetermined period of time. While this is pending, I am directing the department to proceed with the pilot proposal in the most effective manner possible.

I am unable to approve the item designated as Section 16, subsection 16 in its entirety. This section allocates $50,000 for a child welfare services work group. However, no additional funds were added to the appropriation for this purpose. While appropriations for this work group's operation have been requested, its funding over the past several years has largely been the result of diverting funds from other purposes. The state would benefit more from utilizing appropriations, as originally intended, for services that directly affect Iowa children and families.

I am unable to approve the item designated as Section 20, subsection 7 in its entirety. This would require each mental health institute to continue the net budgeting accounting test of managing revenues and expenditures attributable to the mental health institutes, and sub-

mit a status report in October 2000 that identifies the advantages and disadvantages of utilizing this budget approach. The institutes have previously conducted this test and reported the results. Given that the Legislature's budgets for mental health institutions were significantly reduced below my recommendations, and absent an appropriation to accomplish these tasks, the state will benefit more from utilizing appropriations for services that directly assist Iowa children and families.

I am unable to approve the item designated as Section 24, subsection 2 in its entirety. This item would reimburse certain intermediate care facilities for the mentally retarded that predominantly care for persons with a head or brain injury in a different manner than other similar facilities. I am sensitive to the need for services for people with brain or head injuries. I had initially proposed new funding for programs that included brain injury which the Legislature chose not to fund. This provision does not provide additional funding, but rather, it takes funds from state cases which serve persons with mental illness or developmental disabilities. It also gives the appearance of expanding services to additional people when it does not. Therefore, rather than implementing this section, I am directing the department to evaluate the system to determine if resources can be spent in a more efficient and effective manner.

I am unable to approve the item designated as Section 29, subsection 4 in its entirety. This would require the department to redirect state-county technical support staff. The result would be dramatically reduced services to counties. The department must retain the flexibility necessary to make staffing decisions based upon the need to provide services to Iowa children and families.

I am unable to approve the item designated as Section 29, subsection 5 in its entirety. This language addresses the department's efforts to seek and or revise reimbursement methodologies that would best provide the results needed for Iowa's families and children. While the thrust of the language is supportive of the department's efforts, this language appears to be flawed, and therefore, I am unable to support this item. However, the department will continue to work with the legislative branch in developing methodologies that will bring about the best results for Iowa's families.

I am unable to approve the item designated as Section 31, subsection 2, paragraph d in its entirety. Here again, the bill contains language scheduling a meeting for next legislative session, in this case, with persons in the nursing industry.

I am unable to approve the item designated as Section 36 in its entirety. This item requires the department to conduct an evaluation of the child protection system, including "a determination of whether the system changes have improved the safety of children and the support of families in the community, and should identify indicators of increased community involvement in child protection." This study has been requested, but no funds have been appropriated to complete the study for the last three years. The department will contract with consultants from nationally respected child welfare organizations, using funds from private sources to complete an assessment of the child protection system. However, the requirements of Section 36 would increase the scope of that assessment and increase the cost. Rather than using state funding intended for other programs to meet this requirement, the state would benefit more from utilizing current appropriations for services that directly affect Iowa children and families.

I am unable to approve the items designated as Section 46, subsections 2, 3 and 8. These items, relating to effective dates, are not approved to be consistent with other actions disapproved in this bill.

For the above reasons, I hereby respectfully disapprove these items in accordance with Amendment IV of the Amendments of 1968 to the Constitution of the State of Iowa. All other items in Senate File 2435 are hereby approved as of this date.

Sincerely,
THOMAS J. VILSACK, *Governor*

CHAPTER 1229

APPROPRIATIONS — JUSTICE SYSTEM

H.F. 2552

AN ACT relating to and making appropriations to the justice system, making related statutory changes, and providing an effective date.

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

Section 1. DEPARTMENT OF JUSTICE. There is appropriated from the general fund of the state to the department of justice for the fiscal year beginning July 1, 2000, and ending June 30, 2001, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. For the general office of attorney general for salaries, support, maintenance, miscellaneous purposes including odometer fraud enforcement, and for not more than the following full-time equivalent positions:

..... $ 8,524,304
..... FTEs 194.50

2. For the prosecuting attorney training program for salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 322,856
..... FTEs 6.00

3. In addition to the funds appropriated in subsection 1, there is appropriated from the general fund of the state to the department of justice for the fiscal year beginning July 1, 2000, and ending June 30, 2001, an amount not exceeding $200,000 to be used for the enforcement of the Iowa competition law. The funds appropriated in this subsection are contingent upon receipt by the general fund of the state of an amount at least equal to the expenditure amount from either damages awarded to the state or a political subdivision of the state by a civil judgment under chapter 553, if the judgment authorizes the use of the award for enforcement purposes or costs or attorneys fees awarded the state in state or federal antitrust actions. However, if the amounts received as a result of these judgments are in excess of $200,000, the excess amounts shall not be appropriated to the department of justice pursuant to this subsection.

4. In addition to the funds appropriated in subsection 1, there is appropriated from the general fund of the state to the department of justice for the fiscal year beginning July 1, 2000, and ending June 30, 2001, an amount not exceeding $150,000 to be used for public education relating to consumer fraud and for enforcement of section 714.16, and an amount not exceeding $75,000 for investigation, prosecution, and consumer education relating to consumer and criminal fraud against older Iowans. The funds appropriated in this subsection are contingent upon receipt by the general fund of the state of an amount at least equal to the expenditure amount from damages awarded to the state or a political subdivision of the state by a civil consumer fraud judgment or settlement, if the judgment or settlement

authorizes the use of the award for public education on consumer fraud. However, if the funds received as a result of these judgments and settlements are in excess of $225,000, the excess funds shall not be appropriated to the department of justice pursuant to this subsection.

5. For victim assistance grants:

..... $ 1,935,806

a. The funds appropriated in this subsection shall be used to provide grants to care providers providing services to crime victims of domestic abuse or to crime victims of rape and sexual assault.

b. Notwithstanding sections 8.33 and 8.39, 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 during the subsequent fiscal year for the same purpose, and shall not be transferred to any other program.

6. For the GASA prosecuting attorney program and for not more than the following full-time equivalent positions:

..... $ 133,102

..... FTEs 2.00

7. The balance of the victim compensation fund established in section 915.94 may be used to provide salary and support of not more than 20.00 FTEs and to provide maintenance for the victim compensation functions of the department of justice.

8. The department of justice shall submit monthly financial statements to the legislative fiscal bureau and the department of management containing all appropriated accounts in the same manner as provided in the monthly financial status reports and personal services usage reports of the department of revenue and finance. The monthly financial statements shall include comparisons of the moneys and percentage spent of budgeted to actual revenues and expenditures on a cumulative basis for full-time equivalent positions and available moneys.

9. a. The department of justice, in submitting budget estimates for the fiscal year commencing July 1, 2001, pursuant to section 8.23, shall include a report of funding from sources other than amounts appropriated directly from the general fund of the state to the department of justice or to the office of consumer advocate. These funding sources shall include, but are not limited to, reimbursements from other state agencies, commissions, boards, or similar entities, and reimbursements from special funds or internal accounts within the department of justice. The department of justice shall report actual reimbursements for the fiscal year commencing July 1, 1999, and actual and expected reimbursements for the fiscal year commencing July 1, 2000.

b. The department of justice shall include the report required under paragraph "a", as well as information regarding any revisions occurring as a result of reimbursements actually received or expected at a later date, in a report to the co-chairpersons and ranking members of the joint appropriations subcommittee on the justice system and the legislative fiscal bureau. The department of justice shall submit the report on or before January 15, 2001.

10. For legal services for persons in poverty grants as provided in section 13.34:

..... $ 700,000

As a condition for accepting a grant funded pursuant to this subsection, an organization receiving a grant shall submit a report to the general assembly by January 1, 2001, concerning the use of any grants received during the previous fiscal year and efforts made by the organization to find alternative sources of revenue to replace any reductions in federal funding for the organization.

Sec. 2. DEPARTMENT OF JUSTICE — ENVIRONMENTAL CRIMES INVESTIGATION AND PROSECUTION — FUNDING. There is appropriated from the environmental crime fund of the department of justice, consisting of court-ordered fines and penalties awarded to the department arising out of the prosecution of environmental crimes, to the department of justice for the fiscal year beginning July 1, 2000, and ending June 30, 2001, an amount not exceeding $20,000 to be used by the department, at the discretion of the attorney general, for

the investigation and prosecution of environmental crimes, including the reimbursement of expenses incurred by county, municipal, and other local governmental agencies cooperating with the department in the investigation and prosecution of environmental crimes.

The funds appropriated in this section are contingent upon receipt by the environmental crime fund of the department of justice of an amount at least equal to the appropriations made in this section and received from contributions, court-ordered restitution as part of judgments in criminal cases, and consent decrees entered into as part of civil or regulatory enforcement actions. However, if the funds received during the fiscal year are in excess of $20,000, the excess funds shall be deposited in the general fund of the state.

Notwithstanding section 8.33, moneys appropriated in this section that remain unexpended or unobligated at the close of the fiscal year shall not revert to the environmental crime fund but shall remain available for expenditure for the purpose designated until the close of the succeeding fiscal year.

Sec. 3. OFFICE OF CONSUMER ADVOCATE. There is appropriated from the general fund of the state to the office of consumer advocate of the department of justice for the fiscal year beginning July 1, 2000, and ending June 30, 2001, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	$	2,652,903
.....	FTEs	32.00

Sec. 4. DEPARTMENT OF CORRECTIONS — FACILITIES. There is appropriated from the general fund of the state to the department of corrections for the fiscal year beginning July 1, 2000, and ending June 30, 2001, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. For the operation of adult correctional institutions, reimbursement of counties for certain confinement costs, and federal prison reimbursement, to be allocated as follows:

a. For the operation of the Fort Madison correctional facility, including salaries, support, maintenance, employment of correctional officers, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	$	30,153,729
.....	FTEs	533.50[1]

b. For the operation of the Anamosa correctional facility, including salaries, support, maintenance, employment of correctional officers and a part-time chaplain to provide religious counseling to inmates of a minority race, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	$	23,601,997
.....	FTEs	399.00

Moneys are provided within this appropriation for two full-time substance abuse counselors 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, employment of correctional officers, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	$	21,300,914
.....	FTEs	338.80[2]

d. For the operation of the Newton correctional facility, including salaries, support, maintenance, employment of correctional officers, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	$	22,775,087
.....	FTEs	392.25

[1] See chapter 1232, §110 herein
[2] See chapter 1232, §111 herein

e. For the operation of the Mt. Pleasant correctional facility, including salaries, support, maintenance, employment of correctional officers and a full-time chaplain to provide religious counseling at the Oakdale and Mt. Pleasant correctional facilities, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 21,490,369
..... FTEs 342.59

f. For the operation of the Rockwell City correctional facility, including salaries, support, maintenance, employment of correctional officers, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 7,117,981
..... FTEs 121.00

g. For the operation of the Clarinda correctional facility, including salaries, support, maintenance, employment of correctional officers, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 17,814,313
..... FTEs 292.75

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, employment of correctional officers, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 11,960,757
..... FTEs 237.50[3]

i. For the operation of the Fort Dodge correctional facility, including salaries, support, maintenance, employment of correctional officers, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 24,961,904
..... FTEs 414.00

j. For reimbursement of counties for temporary confinement of work release and parole violators, as provided in sections 901.7, 904.908, and 906.17 and for offenders confined pursuant to section 904.513:

..... $ 524,038

k. For federal prison reimbursement, reimbursements for out-of-state placements, and miscellaneous contracts:

..... $ 341,334

The department of corrections shall use funds appropriated in this subsection to continue to contract for the services of a Muslim imam.

2. a. If the inmate tort claim fund for inmate claims of less than $100 is exhausted during the fiscal year, sufficient funds shall be transferred from the institutional budgets to pay approved tort claims for the balance of the fiscal year. The warden or superintendent of each institution or correctional facility shall designate an employee to receive, investigate, and recommend whether to pay any properly filed inmate tort claim for less than the above amount. The designee's recommendation shall be approved or denied by the warden or superintendent and forwarded to the department of corrections for final approval and payment. The amounts appropriated to this fund pursuant to 1987 Iowa Acts, chapter 234, section 304, subsection 2, are not subject to reversion under section 8.33.

b. Tort claims denied at the institution shall be forwarded to the state appeal board for their consideration as if originally filed with that body. This procedure shall be used in lieu of chapter 669 for inmate tort claims of less than $100.

3. It is the intent of the general assembly that the department of corrections shall timely fill correctional positions authorized for correctional facilities pursuant to this section.

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[3] See chapter 1232, §112 herein

Sec. 5. DEPARTMENT OF CORRECTIONS — ADMINISTRATION. There is appropriated from the general fund of the state to the department of corrections for the fiscal year beginning July 1, 2000, and ending June 30, 2001, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. For general administration, including salaries, support, maintenance, employment of an education director and clerk to administer a centralized education program for the correctional system, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 2,405,009
..... FTEs 37.18

a. The department shall monitor the use of the classification model by the judicial district departments of correctional services and has the authority to override a district department's decision regarding classification of community-based clients. The department shall notify a district department of the reasons for the override.

b. It is the intent of the general assembly that as a condition of receiving the appropriation provided in this subsection, the department of corrections shall not, except as otherwise provided in paragraph "c", enter into a new contract, unless the contract is a renewal of an existing contract, for the expenditure of moneys in excess of $100,000 during the fiscal year beginning July 1, 2000, for the privatization of services performed by the department using state employees as of July 1, 2000, 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.

c. The department of corrections shall not enter into a new contract, or renew an existing contract, for the expenditure of moneys for the privatization of medical services through medical contract employees at the Fort Madison correctional facility. However, in order to facilitate the phaseout of using medical contract employees for medical services at the Fort Madison correctional facility, the department may continue to use medical contract employees at the facility for a period of time not to exceed the three months immediately following July 1, 2000.

d. The department of general services shall, notwithstanding any provisions of law or rule to the contrary, permit the department of corrections the opportunity to acquire, at no cost, computers that would otherwise be disposed of by the department of general services. The department of corrections shall use computers acquired under this paragraph to provide educational training and programs for inmates.

e. 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.

f. It is the intent of the general assembly that as a condition of receiving the appropriation provided in this subsection, 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.

g. It is the intent of the general assembly that as a condition of receiving the appropriation provided in this subsection, the department of corrections shall not enter into any new agreement with a private for-profit agency or corporation for the purpose of transferring inmates under the custody of the department to a jail or correctional facility or institution in this state which is established, maintained, or operated by a private for-profit agency or corporation without prior approval by the general assembly.

2. For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions at the correctional training center at Mt. Pleasant:

..... $ 486,247

..... FTEs 8.07

3. For annual payment relating to the financial arrangement for the construction of expansion in prison capacity as provided in 1990 Iowa Acts, chapter 1257, section 24:

..... $ 796,940

4. For educational programs for inmates at state penal institutions:

..... $ 3,294,775

It is the intent of the general assembly that moneys appropriated in this subsection shall be used solely for the purpose indicated and that the moneys shall not be transferred for any other purpose. In addition, it is the intent of the general assembly that the department shall consult with the community colleges in the areas in which the institutions are located to utilize moneys appropriated in this subsection to fund the high school completion, high school equivalency diploma, adult literacy, and adult basic education programs in a manner so as to maintain these programs at the institutions.

To maximize the funding for educational programs, the department shall establish guidelines and procedures to prioritize the availability of educational and vocational training for inmates based upon the goal of facilitating an inmate's successful release from the correctional institution.

Notwithstanding section 8.33, moneys appropriated in this subsection that remain unobligated or unexpended at the close of the fiscal year shall not revert but shall remain available for expenditure only for the purposes designated in this subsection until the close of the succeeding fiscal year.

5. For the development of the departmental-wide Iowa corrections offender network (ICON) data system:

..... $ 600,000

6. The department of corrections shall submit a report to the general assembly on January 1, 2001, concerning progress made in implementing the requirements of section 904.701, concerning hard labor by inmates.

7. 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, 2000, 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, 2000, 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.

8. The department of corrections shall submit a report to the general assembly by January 1, 2001, concerning moneys recouped from inmate earnings for the reimbursement of operational expenses of the applicable facility during the fiscal year beginning July 1, 1999, 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 each member of the joint appropriations subcommittee on the justice system and the legislative fiscal bureau on a monthly basis concerning moneys recouped from inmate earnings for the reimbursement of operational expenses for each correctional institution and district department during the previous calendar month.

9. The department of corrections shall submit a report to the general assembly by January 1, 2001, concerning the use of inmate labor on capital improvement projects.

Sec. 6. DEPARTMENT OF CORRECTIONS — EDUCATIONAL PROGRAMS. Notwithstanding any provision of section 904.508A to the contrary, of the moneys received for inmate telephone rebates and deposited in an inmate telephone rebate fund for each institution during the fiscal year beginning July 1, 2000, and ending June 30, 2001, $300,000 is appropriated to the department of corrections and shall be expended by the department for educational programs, including vocational education programs, for inmates at state penal institutions.

Sec. 7. 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, 2000, and ending June 30, 2001, the following amounts, or so much thereof as is necessary, to be allocated as follows:

a. For the first judicial district department of correctional services, including the treatment and supervision of probation and parole violators who have been released from the department of corrections violator program, the following amount, or so much thereof as is necessary:

..... $ 8,793,845[4]

b. For the second judicial district department of correctional services, including the treatment and supervision of probation and parole violators who have been released from the department of corrections violator program, the following amount, or so much thereof as is necessary:

..... $ 7,024,872[5]

c. For the third judicial district department of correctional services, including the treatment and supervision of probation and parole violators who have been released from the department of corrections violator program, the following amount, or so much thereof as is necessary:

..... $ 4,261,670

d. For the fourth judicial district department of correctional services, including the treatment and supervision of probation and parole violators who have been released from the department of corrections violator program, the following amount, or so much thereof as is necessary:

..... $ 3,130,030

e. For the fifth judicial district department of correctional services, including the treatment and supervision of probation and parole violators who have been released from the department of corrections violator program, the following amount, or so much thereof as is necessary:

..... $ 11,708,518[6]

f. For the sixth judicial district department of correctional services, including the treatment and supervision of probation and parole violators who have been released from the department of corrections violator program, the following amount, or so much thereof as is necessary:

..... $ 8,875,900[7]

g. For the seventh judicial district department of correctional services, including the treatment and supervision of probation and parole violators who have been released from the department of corrections violator program, the following amount, or so much thereof as is necessary:

..... $ 5,171,401[8]

h. For the eighth judicial district department of correctional services, including the treatment and supervision of probation and parole violators who have been released from the

* Item veto; see message at end of the Act

[4] See chapter 1232, §113 herein

[5] See chapter 1232, §114 herein

[6] See chapter 1232, §115 herein

[7] See chapter 1232, §116 herein

[8] See chapter 1232, §117 herein

department of corrections violator program, the following amount, or so much thereof as is necessary:

..... $ 5,062,560

i. For the department of corrections for the assistance and support of each judicial district department of correctional services, the following amount, or so much thereof as is necessary:

..... $ 83,576

2. Each judicial district department of correctional services 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. 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.

4. Each judicial district department of correctional services and the department of corrections shall continue the treatment alternatives to street crime programs established in 1989 Iowa Acts, chapter 225, section 9.

5. The governor's alliance on substance abuse 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.

6. Each judicial district department of correctional services shall provide a report concerning the treatment and supervision of probation and parole violators who have been released from the department of corrections violator program, to the co-chairpersons and ranking members of the joint appropriations subcommittee on the justice system and the legislative fiscal bureau, on or before January 15, 2001.

7. In addition to the requirements of section 8.39, the department of corrections shall not make an intradepartmental transfer of moneys appropriated to the department, unless notice of the intradepartmental transfer is given prior to its effective date to the legislative fiscal bureau. The notice shall include information on the department's rationale for making the transfer and details concerning the work load and performance measures upon which the transfers are based.

8. Each judicial district department of correctional services shall submit a report to the general assembly by January 8, 2001, concerning what action, if any, the district department has taken in order to implement, or not implement, an intermediate criminal sanctions program as provided by section 901B.1. If the district department has implemented such a program, the report shall include information as to the effectiveness of the program.

Sec. 8. CORRECTIONAL INSTITUTIONS — VOCATIONAL TRAINING.

1. The state prison industries board and the department of corrections shall continue the implementation of a plan to enhance vocational training opportunities within the correctional institutions listed in section 904.102, as provided in 1993 Iowa Acts, chapter 171, section 12. The plan shall provide for increased vocational training opportunities within the correctional institutions, including the possibility of approving community college credit for inmates working in prison industries. The department of corrections shall provide a report concerning the implementation of the plan to the co-chairpersons and ranking members of the joint appropriations subcommittee on the justice system and the legislative fiscal bureau, on or before January 15, 2001.

2. It is the intent of the general assembly that each correctional facility make all reasonable efforts to maintain vocational education programs for inmates and to identify available funding sources to continue these programs. The department of corrections shall submit a report to the general assembly by January 1, 2001, concerning the efforts made by each correctional facility in maintaining vocational education programs for inmates.

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 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.

3. State agencies shall submit to the legislative fiscal bureau by January 15, 2001, a report of the dollar value of products and services purchased from Iowa state industries by the state agency during the fiscal year beginning July 1, 1999, and ending June 30, 2000.

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, 2000, and ending June 30, 2001, the following amounts, or so much thereof as is necessary, for the purposes designated:

..... $ 35,103,664

The funds appropriated and full-time equivalent positions authorized in this section are allocated as follows:

1. For salaries, support, maintenance, and miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 13,899,288

..... FTEs 201.00

2. For the fees of court-appointed attorneys for indigent adults and juveniles, in accordance with section 232.141 and chapter 815:

..... $ 21,204,376

Sec. 11. IOWA CORRECTIONS OFFENDER NETWORK DATA SYSTEM. The department of corrections shall submit a report to the co-chairpersons and ranking members of the joint appropriations subcommittee on the justice system and the legislative fiscal bureau, on or before January 15, 2001, concerning the development and implementation of the Iowa corrections offender network (ICON) data system. The report shall include a description of the system and functions, a plan for implementation of the system, including a timeline, resource and staffing requirements for the system, and a current status and progress report concerning the implementation of the system. In addition, the report shall specifically address the ability of the system to receive and transmit data between prisons, community-based corrections district departments, the judicial branch, board of parole, the criminal and juvenile justice planning division of the department of human rights, the department of public safety, and other applicable governmental agencies. The report should include a detailed discussion of the cooperation with other state agencies and the judicial branch in the development and implementation of the system.

Sec. 12. IOWA LAW ENFORCEMENT ACADEMY. There is appropriated from the general fund of the state to the Iowa law enforcement academy for the fiscal year beginning July 1, 2000, and ending June 30, 2001, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

1. For salaries, support, maintenance, miscellaneous purposes, including jailer training and technical assistance, and for not more than the following full-time equivalent positions:

..... $ 1,365,029

..... FTEs 31.05

It is the intent of the general assembly that the Iowa law enforcement academy may provide training of state and local law enforcement personnel concerning the recognition of and response to persons with Alzheimer's disease.

2. The Iowa law enforcement academy may select at least five automobiles of the department of public safety, division of the Iowa state patrol, prior to turning over the automobiles to the state fleet administrator to be disposed of by public auction and the Iowa law enforcement academy may exchange any automobile owned by the academy for each automobile selected if the selected automobile is used in training law enforcement officers at the academy. However, any automobile exchanged by the academy shall be substituted for the selected vehicle of the department of public safety and sold by public auction with the receipts being deposited in the depreciation fund to the credit of the department of public safety, division of the Iowa state patrol.

Sec. 13. 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, 2000, and ending June 30, 2001, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For salaries, support, maintenance, including maintenance of an automated docket and the board's automated risk assessment model, employment of two statistical research analysts to assist with the application of the risk assessment model in the parole decision-making process, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 1,042,404
..... FTEs 18.00

A portion of the funds appropriated in this section shall be used to continue a pilot program for probation violations in the sixth judicial district department of correctional services. Data shall be maintained to evaluate the pilot program.

Sec. 14. 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, 2000, and ending June 30, 2001, 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:

..... $ 4,992,231
..... FTEs 254.76

If there is a surplus in the general fund of the state for the fiscal year ending June 30, 2001, within 60 days after the close of the fiscal year, the military division may incur up to an additional $500,000 in expenditures from the surplus prior to transfer of the surplus pursuant to section 8.57.

2. EMERGENCY MANAGEMENT DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 1,032,186
..... FTEs 25.25

Sec. 15. 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, 2000, and ending June 30, 2001, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. For the department's administrative functions, including the criminal justice information system, and for not more than the following full-time equivalent positions:

..... $ 2,553,129
..... FTEs 38.80

2. For the division of criminal investigation and bureau of identification including the state's contribution to the peace officers' retirement, accident, and disability system provided in chapter 97A in the amount of 17 percent of the salaries for which the funds are

appropriated, to meet federal fund matching requirements, and for not more than the following full-time equivalent positions:

..... $ 12,470,844
..... FTEs 233.50

Riverboat enforcement costs shall be billed in accordance with section 99F.10, subsection 4. The costs shall be not more than the department's estimated expenditures, including salary adjustment, for riverboat enforcement for the fiscal year.

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, 2000, and one special agent for each racing facility which becomes operational during the fiscal year which begins July 1, 2000. One additional gaming enforcement officer, up to a total of four per boat, may be employed for each riverboat that has extended operations to 24 hours and has not previously operated with a 24-hour schedule. Positions authorized in this paragraph are in addition to the full-time equivalent positions authorized in this subsection.

3. a. For the division of narcotics enforcement, including the state's contribution to the peace officers' retirement, accident, and disability system provided in chapter 97A in the amount of 17 percent of the salaries for which the funds are appropriated, to meet federal fund matching requirements, and for not more than the following full-time equivalent positions:

..... $ 3,972,285
..... FTEs 65.00

b. For the division of narcotics enforcement for undercover purchases:

..... $ 139,202

4. a. For the state fire marshal's office, including the state's contribution to the peace officers' retirement, accident, and disability system provided in chapter 97A in the amount of 17 percent of the salaries for which the funds are appropriated, and for not more than the following full-time equivalent positions:

..... $ 1,930,061
..... FTEs 35.80

b. For the state fire marshal's office, for fire protection services as provided through the state fire service and emergency response council as created in the department, and for not more than the following full-time equivalent positions:

..... $ 590,591
..... FTEs 12.00

5. For the capitol police division, including the state's contribution to the peace officers' retirement, accident, and disability system provided in chapter 97A in the amount of 17 percent of the salaries for which the funds are appropriated and for not more than the following full-time equivalent positions:

..... $ 1,386,588
..... FTEs 27.00

6. For the division of the Iowa state patrol of the department of public safety, for salaries, support, maintenance, workers' compensation costs, and miscellaneous purposes, including the state's contribution to the peace officers' retirement, accident, and disability system provided in chapter 97A in the amount of 17 percent of the salaries for which the funds are appropriated, and for not more than the following full-time equivalent positions:

..... $ 38,686,879
..... FTEs 579.25

7. For costs associated with the maintenance of the automated fingerprint information system (AFIS):

..... $ 269,425

8. An employee of the department of public safety who retires after July 1, 2000, but prior to June 30, 2001, is eligible for payment of life or health insurance premiums as provided for

in the collective bargaining agreement covering the public safety bargaining unit at the time of retirement if that employee previously served in a position which would have been covered by the agreement. The employee shall be given credit for the service in that prior position as though it were covered by that agreement. The provisions of this subsection shall not operate to reduce any retirement benefits an employee may have earned under other collective bargaining agreements or retirement programs.

9. For costs associated with the training and equipment needs of volunteer fire fighters and for not more than the following full-time equivalent positions:

..... $ 709,405
..... FTEs 1.00

Notwithstanding section 8.33, moneys appropriated in this subsection that remain unobligated or unexpended at the close of the fiscal year shall not revert but shall remain available for expenditure only for the purpose designated in this subsection until the close of the succeeding fiscal year.

Sec. 16. Section 18.6, Code Supplement 1999, is amended by adding the following new subsection:

NEW SUBSECTION. 16. The department shall not award a contract to a bidder for a construction, reconstruction, demolition, or repair project or improvement with an estimated cost that exceeds twenty-five thousand dollars in which the bid requires the use of inmate labor supplied by the department of corrections, but not employed by private industry pursuant to section 904.809, to perform the project or improvement.

Sec. 17. Section 99D.14, Code 1999, is amended by adding the following new subsection:

NEW SUBSECTION. 7. A licensee shall pay a fee in an amount representing eighty percent of the salary costs of the division of criminal investigation of the department of public safety for enforcement of this chapter and an additional amount for the division's costs to enforce this chapter which, for all licensees, shall not exceed thirty thousand dollars.

Sec. 18. Section 99F.10, subsection 4, Code 1999, is amended to read as follows:

4. In determining the license fees and state admission fees to be charged as provided under section 99F.4 and this section, the commission shall use the amount appropriated to the commission plus the cost of salaries for no more than two special agents and no more than four gaming enforcement officers for each excursion gambling boat for the division of criminal investigation's excursion gambling boat activities and an amount for all licensees, not to exceed one hundred twenty-five thousand dollars, representing other associated costs of the division, as the basis for determining the amount of revenue to be raised from the license fees and admission fees. The division's salary costs shall be limited to ~~sixty-five~~ eighty percent of the salary costs for special agents and ~~sixty-five~~ eighty percent of the salary costs for gaming enforcement for personnel assigned to excursion gambling boats who enforce laws and rules adopted by the commission.

Sec. 19. Section 99F.4A, Code 1999, is amended by adding the following new subsection:

NEW SUBSECTION. 8. A licensee shall pay a fee in an amount representing eighty percent of the salary costs of the division of criminal investigation of the department of public safety for enforcement of this chapter.

Sec. 20. Section 100.1, Code 1999, is amended by added by[9] the following new subsection:

NEW SUBSECTION. 6. To adopt rules designating a fee to be assessed to each building, structure, or facility for which a fire safety inspection by the state fire marshal is required as a condition of licensure. The fee designated by rule shall be set in an amount that is reasonably related to the costs of conducting the applicable inspection. The fees collected by the state fire marshal shall be deposited in the general fund of the state.

[9] According to enrolled Act

Sec. 21. Section 103A.23, Code 1999, is amended to read as follows:

103A.23 FEES.

For the purpose of obtaining revenue to defray the costs of administering the provisions of this chapter, the commissioner shall establish by rule a schedule of fees based upon the costs of administration which fees shall be collected from persons whose manufacture, installation or construction is subject to the provisions of the state building code. For the performance of building plan reviews by the department of public safety, the commissioner shall establish by rule a fee, chargeable to the owner of the building, which shall be equal to a percentage of the estimated total valuation of the building and which shall be in an amount reasonably related to the cost of conducting the review. **If the commissioner establishes by rule a fee for the performance of a building plan review by the department, the commissioner shall also provide by rule that the failure of the department to approve or disapprove a building plan review within sixty days of submission of the plan shall be deemed to be an approval of the plan.**

All fees collected by the commissioner shall be deposited in the state treasury to the credit of the general fund of the state.

All federal grants to and federal receipts of the office of state building code commissioner are appropriated for the purpose set forth in the federal grants or receipts.

Sec. 22. Section 904.315, Code 1999, is amended to read as follows:

904.315 CONTRACTS FOR IMPROVEMENTS.

The director of the department of general services shall, in writing, let all contracts for authorized improvements costing in excess of twenty-five thousand dollars under chapter 18. Upon prior authorization by the director, improvements costing five thousand dollars or less may be made by the superintendent of any institution.

~~Contracts are~~ A contract is not required for improvements at a state institution where the labor of inmates is to be used if the contract is not for a construction, reconstruction, demolition, or repair project or improvement with an estimated cost in excess of twenty-five thousand dollars.

Sec. 23. Section 904.508A, Code 1999, is amended to read as follows:

904.508A INMATE TELEPHONE REBATE FUND.

*~~The department is authorized to establish and maintain an~~ An inmate telephone rebate fund ~~in each institution for the deposit of moneys~~ is created in the office of the treasurer of state. Moneys received by the department or an institution for inmate telephone rebates shall be deposited in the fund. ~~All funds deposited in this~~ Moneys deposited in the fund shall be used only as provided in appropriations from the fund and shall be used for the benefit of inmates. ~~The director shall adopt rules providing for the disbursement of moneys from the fund.~~**

Sec. 24. Section 905.14, subsection 1, Code 1999, is amended to read as follows:

1. A person placed on probation or parole and subject to supervision by a district department shall be required to pay an enrollment fee of two hundred fifty dollars to the district department to offset the costs of supervision. ~~The fee shall be based on the offense class of the most serious offense for which the person has received probation or parole, including deferred judgments or deferred sentences, and shall be as follows:~~

~~a. For a felony, one hundred fifty dollars.~~

~~b. For an aggravated misdemeanor, one hundred twenty-five dollars.~~

~~c. For a serious or simple misdemeanor, one hundred dollars.~~

Sec. 25. 1998 Iowa Acts, chapter 1101, section 15, subsection 2, as amended by 1999 Iowa Acts, chapter 202, section 25, is amended to read as follows:

2. a. There is appropriated from surcharge moneys received by the E911 administrator and deposited into the wireless E911 emergency communications fund, for ~~the~~ each fiscal year in the fiscal period beginning July 1, 1998, and ~~for the fiscal year beginning July 1,~~

* Item veto; see message at end of the Act

~~1999~~ ending June 30, 2001, an amount not to exceed two hundred thousand dollars to be used for the implementation, support, and maintenance of the functions of the E911 administrator. The amount appropriated in this paragraph includes any amounts necessary to reimburse the division of emergency management of the department of public defense pursuant to paragraph "b".

b. Notwithstanding the distribution formula in section 34A.7A, as enacted in this Act, and prior to any such distribution, of the initial surcharge moneys received by the E911 administrator and deposited into the wireless E911 emergency communications fund, for ~~the~~ each fiscal year in the fiscal period beginning July 1, 1998, and ~~for the fiscal year beginning July 1, 1999~~ ending June 30, 2001, an amount ~~shall be transferred~~ is appropriated to the division of emergency management of the department of public defense as necessary to reimburse the division for amounts expended for the implementation, support, and maintenance of the E911 administrator, including the E911 administrator's salary.

Sec. 26. CORRECTIONAL FARMS — STUDY. The legislative council is requested to establish a legislative interim committee to study issues concerning the use of correctional farms under the control of the department of corrections. The committee shall consider, among other issues, possible ways to create job opportunities for inmates at the farms and the possible sale or rental of farmland under the control of the department. The interim committee shall submit a report and recommendations to the general assembly for the 2001 legislative session.

Sec. 27. SEX OFFENDER REGISTRY — STUDY. The legislative council is requested to establish a legislative interim committee to study issues concerning the operation of the sex offender registry program pursuant to chapter 692A. The committee should be directed to assess the current effectiveness of the sex offender registry program and to consider, among other issues, the method of determining placement on the registry, the timeliness of information placed on the registry, and the dissemination of information on the registry. In conducting its study, the committee should examine the effectiveness of sex offender registry programs in other states and should consider testimony from interested stakeholders involved in Iowa's sex offender registry program at both the state and local level. The interim committee should submit a report, including its findings and recommendations, to the general assembly for the 2001 legislative session.

Sec. 28. EFFECTIVE DATE. Section 23 of this Act, amending section 904.508A, takes effect July 1, 2001.

Approved May 17, 2000, with exceptions noted.

THOMAS J. VILSACK, *Governor*

Dear Mr. Secretary:

I hereby transmit House File 2552, an Act appropriating funds to the Justice system, making related statutory changes, and providing an effective date.

Safe communities are a priority of all Iowans, and I am pleased that this bill provides additional opportunities to move closer to this goal. Notable achievements in this bill include: four new narcotics agents to continue the fight against the illegal drug markets in our communities, additional criminal laboratory personnel to work toward more timely processing of criminal evidence, and new fire inspectors to assure that fire and safety code

* Item veto; see message at end of the Act

standards are followed. Within the Department of Corrections budget, many efforts also were included to ensure safer communities for all Iowans. This is evidenced by the expansion of drug courts to stop the cycle of the nonviolent drug offenders, the addition of 20 new Community-Based Corrections personnel to help monitor those on probation and parole, funding for the new Community-Based Corrections beds, as well as for beds added at the recently expanded Fort Dodge and Mitchellville prison facilities.

House File 2552 is, therefore, approved on this date with the following exceptions, which I hereby disapprove.

I am unable to approve the items designated as Sections 6, 23, and 28 in their entirety. Section 6 appropriates funds for educational and vocational programming from the inmate telephone rebate fund. Section 23, also regarding the inmate telephone rebate fund, would only allow expenditures by the legislative appropriation process. While I agree with the intent of using funds from inmate telephone rebates for educational and vocational programs, the Department of Corrections has, since 1998, used telephone rebate funds well above this level for educational and vocational projects. The Department of Corrections, with oversight from the Board of Corrections, will continue in the coming fiscal year to utilize the authority to spend telephone rebate funds for educational and vocational programs that are for the benefit of inmates, without the need for a specific legislative mandate to do so. The Department will expend in excess of the $300,000 identified by the Legislature for educational and vocational programs in both fiscal years 2000 and 2001. To improve oversight of these expenditures in the past year, I asked the Board of Corrections to review all projects prior to departmental action. At this time, it appears that the process is working well and I see no need to approve this additional legislative mandate. Section 28 sets the enactment date for Section 23, therefore, it is not needed.

I am unable to approve the designated portion of Section 21. This item limits the time frame for any building plan review process to within sixty days of submission of the plan. Unless otherwise acted upon, this language would mandate that all plans automatically be approved after the expiration of the sixty-day period. I do not think it is wise governmental policy to have plans deemed automatically approved because of the elapse of an arbitrary time frame. Building access and safety codes should not be compromised, or deemed approved, without the necessary review.

However, the expectation of a sixty-day turnaround is a proper goal. Therefore, although I will veto this section, I also am directing the Department of Public Safety, Fire Marshal Office Division, to submit for approval by administrative rule a sixty-day turnaround on building plan reviews, and offer a "money back guarantee," if they are unable to meet the deadline.

For the above reasons, I hereby respectfully approve House File 2552 with the exceptions noted above.

Sincerely,
THOMAS J. VILSACK, *Governor*

CHAPTER 1230

APPROPRIATIONS — ECONOMIC DEVELOPMENT

S.F. 2428

AN ACT appropriating funds to the department of economic development, certain board of regents institutions, the department of workforce development, the public employment relations board, making related statutory changes, and providing an effective date.

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

Section 1. DEPARTMENT OF ECONOMIC DEVELOPMENT. There is appropriated from the general fund of the state and other designated funds to the department of economic development for the fiscal year beginning July 1, 2000, and ending June 30, 2001, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. ADMINISTRATIVE SERVICES DIVISION

a. General administration

For salaries, support, maintenance, miscellaneous purposes, for allocating $250,000 to the world food prize, and for providing that a business receiving moneys from the department for the purpose of job creation shall make available ten percent of the new jobs created for promise jobs program participants who are qualified for the jobs created, and for not more than the following full-time equivalent positions:

..... $ 1,720,213
..... FTEs 25.75

b. Film office

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 257,625
..... FTEs 2.00

c. Iowa commission on volunteerism

For transferring to the Iowa state commission grant program to be used as matching funds for salaries, support, maintenance, and miscellaneous purposes:

..... $ 80,000
..... FTEs 3.25

2. BUSINESS DEVELOPMENT DIVISION

a. Business development operations

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 4,810,534
..... FTEs 27.75

Of the amount appropriated in this paragraph "a", $672,000 shall be allocated to support activities in conjunction with the Iowa manufacturing technology center, and $100,000 shall be allocated to the graphic arts center.

The department shall consult and work with the small business development centers in an effort to eliminate any duplication of services provided by the department and the small business development centers and to determine how to deliver services to small businesses in the state in the most efficient manner. The department, in consultation with the small business development centers, shall develop a written report identifying and distinguishing the distinct services to be provided by the department and the small business development centers and recommend actions which would eliminate any duplication of services. By December 1, 2000, the written report shall be submitted to the chairpersons and ranking members of the joint appropriations subcommittee on economic development.

For the fiscal year beginning July 1, 2000, and ending June 30, 2001, the department shall allocate $100,000 from the moneys appropriated under this subsection for the federal procurement office.

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* Item veto; see message at end of the Act

b. Workforce recruitment initiative

For workforce recruitment initiative purposes, including salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 393,217

..... FTEs 2.00

c. Strategic investment fund

For deposit in the Iowa strategic investment fund for salaries, support, and for not more than the following full-time equivalent positions:

..... $ 3,700,000

..... FTEs 12.50

For the fiscal year beginning July 1, 2000, and ending June 30, 2001, the Iowa economic development board shall allocate from the Iowa strategic investment fund at least $3,000,000 to the value-added agricultural products and processes financial assistance fund created in section 15E.112.

The department may allocate from the Iowa strategic investment fund up to $96,000 for the microbusiness rural enterprise assistance program under section 15.114.

By January 14, 2001, the department shall submit a written report to the members of the joint appropriations subcommittee on economic development and the legislative fiscal bureau on the progress made by the department in making the community economic betterment program a self-sustaining, revolving loan program. The report shall include information regarding the department's progress in making the community economic betterment program self-sufficient and projections and plans for continuing to make the program self-sufficient over the subsequent five years.

d. Insurance economic development

There is appropriated from moneys collected by the division of insurance in excess of the anticipated gross revenues under section 505.7, subsection 3, to the department for the fiscal year beginning July 1, 2000, and ending June 30, 2001, the following amount, or so much thereof as is necessary, for insurance economic development and international insurance economic development:

..... $ 100,000

e. Value-added agriculture

There is appropriated from the moneys available to support value-added agricultural products and processes, 6 percent, or so much thereof as is necessary, for administration of the value-added agricultural products and processes financial assistance program as provided in section 15E.111, including salaries, support, maintenance, miscellaneous purposes, and for not more than 3.00 FTEs.

The department shall collaborate with the university of northern Iowa on a strategic initiative to develop ag-based industrial lubrication technology and to create projects to deploy the technology in commercial applications. Notwithstanding the requirements of section 15E.111 and the administrative rules for value-added agricultural products and processes, the department shall allocate $275,000 for this initiative.

3. COMMUNITY DEVELOPMENT DIVISION

a. Community assistance

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions for administration of the community economic preparedness program, the Iowa community betterment program, and the city development board:

..... $ 855,031

..... FTEs 10.50

b. Main street/rural main street program

For salaries and support for not more than the following full-time equivalent positions:

..... $ 427,698

..... FTEs 3.00

Notwithstanding section 8.33, moneys committed to grantees under contract from the general fund of the state that remain unexpended on June 30, 2001, shall not revert to any

fund but shall remain available for expenditure for purposes of the contract during the fiscal year beginning July 1, 2001.

c. Community development program

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions, for rural resource coordination, rural community leadership, rural innovations grant program, and the rural enterprise fund:

..... $ 958,440
..... FTEs 7.50

There is appropriated from the rural community 2000 program revolving fund established in section 15.287 to provide to Iowa's councils of governments funds for planning and technical assistance to local governments:

..... $ 150,000

There is appropriated from the rural community 2000 program revolving fund established in section 15.287 to the rural development program for the purposes of the program including the rural enterprise fund and collaborative skills development training:

..... $ 370,000

Notwithstanding section 8.33, moneys committed to grantees under contract from the general fund of the state or through transfers from the Iowa community development loan fund or from the rural community 2000 program revolving fund that remain unexpended on June 30, 2001, shall not revert but shall be available for expenditure for purposes of the contract during the fiscal year beginning July 1, 2001.

d. Community development block grant and HOME

For administration and related federal housing and urban development grant administration for salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 406,000
..... FTEs 21.75

e. Housing development and shelter assistance funds

For providing technical assistance to communities of all sizes and local financial institutions to help meet local housing needs, and to provide $400,000 to the shelter assistance fund, and for not more than the following full-time equivalent positions:

..... $ 500,000
..... FTEs 2.00

Notwithstanding section 8.33, moneys committed to grantees under contract from the housing development fund and moneys transferred for matching funds for the HOME program that remain unexpended or unobligated on June 30, 2001, shall not revert to any fund but shall remain available for obligation and expenditure for purposes of those programs during the fiscal year beginning July 1, 2001.

4. INTERNATIONAL DIVISION

a. International trade operations

For salaries, support, maintenance, miscellaneous purposes, for support of foreign representation and trade offices, and the agricultural product advisory council, and for not more than the following full-time equivalent positions:

..... $ 2,309,569
..... FTEs 14.25

Of the moneys appropriated in this lettered paragraph, $250,000 shall be allocated to support the taste of Iowa program.

From among the full-time equivalent positions authorized by this lettered paragraph, one position shall concentrate on the export sale of grain, one on the export sale of livestock, and one on the export sale of value-added agricultural products.

b. Export trade assistance program

For export trade activities, including a program to encourage and increase participation in trade shows and trade missions by providing financial assistance to businesses for a percentage of their costs of participating in trade shows and trade missions, by providing for the lease/sublease of showcase space in existing world trade centers, by providing

temporary office space for foreign buyers, international prospects, and potential reverse investors, and by providing other promotional and assistance activities, including salaries and support:

..... $ 408,000

Notwithstanding section 8.33, moneys appropriated in this lettered paragraph that remain unencumbered or unobligated at the close of the fiscal year shall not revert but shall remain available for expenditure for the purposes designated until the close of the succeeding fiscal year.

c. For the partner state program to contract with private groups or organizations which are the most appropriate to administer this program and the groups and organizations participating in the program shall, to the fullest extent possible, provide the funds to match the appropriation made in this paragraph:

..... $ 120,000

5. TOURISM DIVISION

Tourism operations and advertising

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 4,940,413

..... FTEs 18.52

Any state-owned interstate welcome center located in suitable, year-round facilities shall be operated on a year-round basis.

The department shall not use the moneys appropriated in this subsection, unless the department develops 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.

Sec. 2. COMMUNITY DEVELOPMENT LOAN FUND. Notwithstanding section 15E.120, subsections 5, 6, and 7, and section 15.287, there is appropriated from the Iowa community development loan fund all the moneys available during the fiscal year beginning July 1, 2000, and ending June 30, 2001, to the department of economic development for the community development program to be used by the department for the purposes of the program.

Sec. 3. JOB TRAINING FUND. Notwithstanding section 15.251, subsection 2, there is appropriated from the job training fund to the department of workforce development for the fiscal year beginning July 1, 2000, and ending June 30, 2001, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

1. For the target alliance program:

..... $ 30,000

2. After the appropriation in subsection 1 relating to the target alliance program, all remaining moneys in the job training fund, including any moneys appropriated or credited to the fund during the fiscal year, shall be transferred to the workforce development fund established pursuant to section 15.343.

Sec. 4. WORKFORCE DEVELOPMENT FUND. There is appropriated from the workforce development fund account created in section 15.342A, to the workforce development fund created in section 15.343, for the fiscal year beginning July 1, 2000, and ending June 30, 2001, the following amount, for the purposes of the workforce development fund, and for not more than the following full-time equivalent positions:

..... $ 8,000,000

..... FTEs 4.00

Sec. 5. 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, 2000, and ending June 30, 2001, may be used for the administration of workforce develop-

ment activities including salaries, support, maintenance, and miscellaneous purposes and for not more than 4.00 FTEs.

Sec. 6. IOWA STATE UNIVERSITY. 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, 2000, and ending June 30, 2001, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. For funding and maintaining in their current locations the existing small business development centers, and for not more than the following full-time equivalent positions:

..... $ 1,211,869
..... FTEs 5.80

2. For the Iowa state university of science and technology research park, including salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 377,109
..... FTEs 4.31

3. For funding the institute for physical research and technology, provided that $306,000 shall be allocated to the industrial incentive program and for not more than the following full-time equivalent positions:

..... $ 4,406,995
..... FTEs 46.42

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 legislative fiscal bureau the total amounts 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. 7. UNIVERSITY OF IOWA. There is appropriated from the general fund of the state to the state university of Iowa for the fiscal year beginning July 1, 2000, and ending June 30, 2001, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. For the university of Iowa research park, including salaries, support, maintenance, equipment, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 336,669
..... FTEs 2.15

2. For funding the advanced drug development program at the Oakdale research park, and for not more than the following full-time equivalent positions:

..... $ 271,770
..... FTEs 3.50

The board of regents shall submit a report on the progress of regents institutions in meeting the strategic plan for technology transfer and economic development to the secretary of the senate, the chief clerk of the house of representatives, and the legislative fiscal bureau by January 15, 2001.

Sec. 8. UNIVERSITY OF NORTHERN IOWA. There is appropriated from the general fund of the state to the university of northern Iowa for the fiscal year beginning July 1, 2000, and ending June 30, 2001, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. For the metal casting institute, including salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 172,356
..... FTEs 2.60

2. For the institute of decision making, including salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 741,439
..... FTEs 9.00

Sec. 9. ACCELERATED CAREER EDUCATION GRANT PROGRAM. If Senate Study Bill 3187[1] is enacted by the Seventy-eighth General Assembly, 2000 Session, there is appropriated from the general fund of the state to the college student aid commission for the fiscal year beginning July 1, 2000, and ending June 30, 2001, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For the accelerated career education grant program, including salaries, support, maintenance, miscellaneous purposes:

..... $ 250,000

Sec. 10. DEPARTMENT OF WORKFORCE DEVELOPMENT. There is appropriated from the general fund of the state, to the department of workforce development for the fiscal year beginning July 1, 2000, and ending June 30, 2001, the following amounts, or so much thereof as is necessary, for the purposes designated:

1. DIVISION OF LABOR SERVICES

For the division of labor services, including salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 3,429,686
..... FTEs 92.00

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.

2. DIVISION OF WORKERS' COMPENSATION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 2,333,263
..... FTEs 35.00

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.

3. WORKFORCE DEVELOPMENT STATE AND REGIONAL BOARDS

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent position for the workforce development state and regional boards:

..... $ 105,632
..... FTE 1.00

[1] Enacted as Senate File 2439, which is chapter 1196 herein

4. LABOR MARKET INFORMATION

For salaries, support, maintenance, miscellaneous purposes for collection of labor market information, and for not more than the following full-time equivalent position:

..... $ 66,155
..... FTE 1.20

It is the intent of the general assembly that, by July 1, 2001, the department of workforce development assume the responsibility for conducting the labor shed survey analysis currently conducted by the institute for decision making. By July 1, 2001, the department of workforce development shall produce labor market information that meet the requirements of the department of workforce development, the department of economic development, and the federal department of labor.

5. WELFARE-TO-WORK MATCHING FUNDS

For matching funds for welfare-to-work grants authorized through the United States department of labor to provide additional services for the hardest to employ recipients of family investment program benefits and for salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 153,000
..... FTEs 3.55

Notwithstanding section 8.33, moneys appropriated in this subsection which remain unexpended or unobligated on June 30, 2001, shall not revert to the general fund of the state but shall remain available for expenditure for the same purpose during the fiscal year beginning July 1, 2001.

6. LABOR MANAGEMENT COORDINATOR

For salaries, support, maintenance, and miscellaneous purposes for a labor management coordinator:

..... $ 68,999
..... FTEs 0.50

7. NEW EMPLOYMENT OPPORTUNITY FUND

For salaries, support, maintenance, and miscellaneous purposes, and for not more than the following full-time equivalent positions for the new employment opportunity program established in section 84A.10:

..... $ 500,000
..... FTEs 1.79

Sec. 11. ADMINISTRATIVE CONTRIBUTION SURCHARGE FUND. There is appropriated from the administrative contribution surcharge fund of the state to the department of workforce development for the fiscal year beginning July 1, 2000, and ending June 30, 2001, the following amounts, or so much thereof as is necessary, for the purposes designated:

WORKFORCE DEVELOPMENT CENTERS

Notwithstanding section 96.7, subsection 12, paragraph "c", for salaries, support, maintenance, conducting labor availability surveys, miscellaneous purposes, for workforce development regional advisory board member expenses, and for not more than the following full-time equivalent positions:

..... $ 7,500,000
..... FTEs 124.97

In addition to moneys appropriated by this section, notwithstanding section 96.7, subsection 12, paragraph "c", for the fiscal year beginning July 1, 2000, there is appropriated from the administrative contribution surcharge fund of the state to the department of workforce development $700,000, or so much thereof as is necessary, for matching funds for welfare-to-work grants authorized through the United States department of labor.

Any amount of moneys up through June 30, 2001, in the administrative contribution surcharge fund in excess of the moneys otherwise appropriated in this section, is appropriated to and may be used by the department of workforce development for the purposes set out in this section.

Sec. 12. 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, 2000, and ending June 30, 2001, the following amounts, or so much thereof as is necessary, for the purposes designated:

1. DIVISION OF WORKERS' COMPENSATION

For salaries, support, maintenance, and miscellaneous purposes:

..... $ 471,000

2. IMMIGRATION SERVICE CENTERS

For salaries, support, maintenance, and miscellaneous purposes for the establishment of pilot immigration service centers:

..... $ 160,000

The department of workforce development shall establish pilot immigration service centers that offer one-stop services to deal with the multiple issues related to immigration and employment. The pilot centers shall be designed to support workers, businesses, and communities with information, referrals, job placement assistance, translation, language training, resettlement, as well as technical and legal assistance on such issues as forms and documentation. Through the coordination of local, state, and federal service providers, and through the development of partnerships with public, private, and nonprofit entities with established records of international service, these pilot centers shall seek to provide a seamless service delivery system for new Iowans.

3. LABOR SURVEY PROGRAMS

To upgrade labor survey computer program applications to incorporate labor shed information and to contract with the institute for decision making at the university of northern Iowa for labor shed training:

..... $ 190,000

4. ACCOUNTING SYSTEM REENGINEERING

For continuation of the accounting system reengineering project:

..... $ 200,000

5. UNEMPLOYMENT INSURANCE SERVICE CENTER

To assist in the cost of the toll-free number for processing initial and continuing unemployment compensation claims at the unemployment insurance service center:

..... $ 150,000

Any additional penalty and interest revenue may be used to accomplish the mission of the department upon notification of the use to the chairpersons and ranking members of the joint appropriations subcommittee on economic development, the department of management, and the legislative fiscal bureau. **However, the department shall not allocate any additional penalty and interest revenue prior to January 30, 2001.** If department projections indicate the special employment security contingency fund revenues will be insufficient to fund all appropriations under this section, the department shall fully fund subsections 1 through 4 before fully funding the appropriation under subsection 5.

Sec. 13. 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, 2000, and ending June 30, 2001, 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:

..... $ 886,981
..... FTEs 12.80

Sec. 14. Section 15.313, subsection 2, Code Supplement 1999, is amended by adding the following new paragraph:

NEW PARAGRAPH. i. The value-added agricultural products and processes financial assistance fund created in section 15E.112.

* Item veto; see message at end of the Act

Sec. 15. Section 15.342A, Code Supplement 1999, is amended to read as follows:

15.342A WORKFORCE DEVELOPMENT FUND ACCOUNT.

A workforce development fund account is established in the office of the treasurer of state under the control of the department. The account shall receive funds pursuant to section 422.16A up to a maximum of ~~ten~~ eight million dollars per year. The account shall also receive funds pursuant to section 15.251 with no dollar limitation.

Sec. 16. Section 15.343, subsection 3, Code Supplement 1999, is amended to read as follows:

3. a. The director shall submit not later than January 1 of each year at a regular or special meeting, for approval by the economic development board, the proposed allocation of funds from the workforce development fund to be made for the next fiscal year for the programs and purposes contained in subsection 2. The director shall also submit a copy of the proposed allocation to the chairpersons of the joint economic development appropriations subcommittee of the general assembly. Notwithstanding section 8.39, the plan may provide for increased or decreased allocations if the demand for a program indicates that the need is greater or lesser than the allocation for that program. The director shall report on a quarterly basis to the board on the status of the funds and may present proposed revisions for approval by the board in January and April of each year. The director shall also provide quarterly reports to the legislative fiscal bureau on the status of the funds. Unobligated and unencumbered moneys remaining in the workforce development fund or any of its accounts on June 30 of each year shall be considered part of the fund for purposes of the next year's allocation.

b. The first seven million dollars deposited in the workforce development fund shall be used for purposes provided in subsection 2, paragraph "b".

Sec. 17. Section 15E.112, subsection 1, Code 1997, as amended by 1997 Iowa Acts, chapter 207, section 6, is amended to read as follows:

1. A value-added agricultural products and processes financial assistance fund is created within the state treasury under the control of the department. ~~Three million six hundred fifty thousand dollars is appropriated from the general fund of the state to the fund each fiscal year.~~ The fund shall consist of moneys allocated from the Iowa strategic investment fund created in section 15.313, those appropriated moneys, and any other moneys available to and obtained or accepted by the department from the federal government or private sources for placement in the fund. The assets of the fund shall be used by the department only for carrying out the purposes of section 15E.111.

Sec. 18. Section 15E.112, Code 1999, is amended by adding the following new subsection:

NEW SUBSECTION. 5. Four hundred thousand dollars is appropriated from the value-added agricultural products and processes financial assistance fund to the office of renewable fuels and coproducts created in section 159A.3 each fiscal year for deposit in the renewable fuels and coproducts fund created in section 159A.7.

**Sec. 19. Section 15E.175, subsection 2, paragraph b, Code 1999, is amended by adding the following new subparagraph:*

*NEW SUBPARAGRAPH. (4) To provide funding for program capital costs under the accelerated career education program as defined in section 260G.2.**

Sec. 20. NEW SECTION. 84A.10 NEW EMPLOYMENT OPPORTUNITY PROGRAM.

The department of workforce development shall implement and administer a new employment opportunity program to assist individuals in underutilized segments of Iowa's workforce, including but not limited to the persons with physical or mental disabilities, persons convicted of a crime, or minority persons between the ages of 12 and 25, to gain and retain employment. The program shall be designed to complement existing employment and training programs by providing additional flexibility and services that are often needed by

* Item veto; see message at end of the Act

individuals in underutilized segments of the workforce to gain and retain employment. Services provided under the program may include, but are not limited to, transportation costs, child care, health care, health care insurance, on-the-job training, career interest inventory assessments, employability skills assessment, short-term basic education, internships, mentoring, assisting businesses with compliance issues related to the federal Americans with Disabilities Act of 1990, and reducing perceived risks that cause these populations to be underutilized. The department shall adopt rules pursuant to chapter 17A to administer the program, including rules relating to eligibility criteria, eligible populations, and services to implement the intent of this section.

Sec. 21. Section 159A.7, subsection 1, unnumbered paragraph 1, Code 1997, as amended by 1997 Iowa Acts, chapter 207, section 7, is amended to read as follows:

A renewable fuels and coproducts fund is created in the state treasury under the control of the office of renewable fuels and coproducts. ~~Three hundred fifty thousand dollars is appropriated from the general fund of the state to the fund each fiscal year.~~ The fund may also include other moneys available to and obtained or accepted by the office, including moneys from the United States, other states in the union, foreign nations, state agencies, political subdivisions, and private sources.

Sec. 22. Section 159A.7, Code 1999, is amended by adding the following new subsection:

NEW SUBSECTION. 7. Moneys appropriated pursuant to section 15E.112 shall be deposited in the fund. Not more than fifteen percent of the moneys appropriated pursuant to section 15E.112 may be used by the department for administration of the office.

Sec. 23. Section 422.16A, Code 1999, is amended to read as follows:

422.16A JOB TRAINING WITHHOLDING — CERTIFICATION AND TRANSFER.

Upon the completion by a business of its repayment obligation for a training project funded under chapter 260E, including a job training project funded under section 15A.8 or repaid in whole or in part by the supplemental new jobs credit from withholding under section 15A.7 or section 15.331, the sponsoring community college shall report to the department of economic development the amount of withholding paid by the business to the community college during the final twelve months of withholding payments. The department of economic development shall notify the department of revenue and finance of that amount. The department shall credit to the workforce development fund account established in section 15.342A twenty-five percent of that amount each quarter for a period of ten years. If the amount of withholding from the business or employer is insufficient, the department shall prorate the quarterly amount credited to the workforce development fund account. The maximum amount from all employers which shall be transferred to the workforce development fund account in any year is ~~ten~~ eight million dollars.

Sec. 24. IMMIGRATION. The department of economic development and the department of workforce development shall collaborate efforts in delivering immigration services in Iowa.

Sec. 25. NONREVERSION OF TECHNOLOGY INITIATIVES ACCOUNT MONEYS. Notwithstanding section 8.33, moneys appropriated and allocated to the department of economic development in 1999 Iowa Acts, chapter 207, section 5, subsection 3, paragraph "i", subparagraph (1), relating to the business licensure center, 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. OFFICE SUPPLIES. When the department of economic development, the department of workforce development, and the public employment relations board make adjustments to program budgets for the fiscal year beginning July 1, 2000, and ending June 30, 2001, based on reduced appropriation levels, it is the intent of the general assembly that the

departments and board first examine and find appropriate reductions in expenditures for office supplies and other supplies before making adjustments to program budgets.

**Sec. 27. STUDIES.*

1. The information technology services division of the department of general services shall study the workforce investment one-stop program of the department of workforce development to identify stakeholder entities and determine the feasibility of expanding the one-stop program concept to multiple departmental programs. By January 15, 2001, the division shall submit a report on the division's findings to the department of management, the legislative fiscal bureau, and the chairpersons and ranking members of the joint appropriations subcommittee on economic development.

*2. By August 10, 2000, the department of workforce development shall submit a written report relating to the funding of workforce development centers to the department of management, the legislative fiscal bureau, and the chairpersons and ranking members of the joint appropriations subcommittee on economic development. The report shall include the plan of the department for financing the state's system of workforce development centers after the administrative contribution surcharge is repealed pursuant to section 96.7, subsection 12, paragraph "d". The plan shall not include a continuation of the administrative contribution surcharge.**

Sec. 28. Notwithstanding the requirements of section 16.10, subsections 1 and 2, the Iowa finance authority shall, for the fiscal year beginning July 1, 2000, transfer $1,200,000 to the department of economic development for deposit in the community development block grant account to be used as state matching funds for the federal HOME program.

Sec. 29. SHELTER ASSISTANCE FUND. In providing moneys from the shelter assistance fund to homeless shelter programs in the fiscal year beginning July 1, 2000, 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. 30. BUDGET PROPOSALS. The department of economic development and the department of workforce development shall submit all budget proposals in the traditional format as well as in the budgeting for results format for the fiscal year beginning July 1, 2001.

Sec. 31. By December 31 of each year, the ISCC liquidation corporation[2] shall submit an annual written report to the chairpersons and the ranking members of the joint appropriations subcommittee on economic development. The report shall include an update on the financial condition of the corporation relating to the status of any moneys, assets, or contracts currently being held by the corporation or transferred by the corporation during the prior year.

Sec. 32. FEDERAL GRANTS. All federal grants to and the federal receipts of agencies appropriated funds under this Act, not otherwise appropriated, are appropriated for the purposes set forth in the federal grants or receipts unless otherwise provided by the general assembly.

Sec. 33. 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 after December 31, 2002.

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* Item veto; see message at end of the Act

[2] Iowa seed capital corporation renamed ISCC liquidation coporation; 1998 Iowa Acts, chapter 1225, §27

Sec. 34. In lieu of the appropriation made in section 15.365, subsection 3, there is appropriated for the fiscal year beginning July 1, 2000, and ending June 30, 2001, $100,000, or so much thereof as is necessary, from the general fund of the state to the department of economic development to pay refunds as provided under section 15.365.

Sec. 35. 2000 Iowa Acts, Senate File 2439,[3] sections 1 and 9, if enacted, amending sections 15.342A and 422.16A, are repealed.

Sec. 36. EFFECTIVE DATE. Section 25 of this Act, relating to the nonreversion of technology initiatives account moneys, being deemed of immediate importance, takes effect upon enactment.

Approved May 18, 2000, with exceptions noted.

THOMAS J. VILSACK, *Governor*

Dear Mr. Secretary:

I hereby transmit Senate File 2428, an Act appropriating funds to the department of economic development, certain board of regents institutions, the department of workforce development, the public employment relations board, making related statutory changes, and providing an effective date.

Economic development touches all Iowans, and I am pleased that this bill seeks to provide additional opportunities throughout our state. It is notable that several initiatives the Lieutenant Governor and I developed to create more Iowans, younger Iowans, and better paid Iowans are contained within this bill. Our state will benefit from additional worker training opportunities at community colleges through the ACE program, assistance to businesses that provide new employment opportunities for Iowans with disabilities and minority population, additional immigration services, and worker safety. These are quality of life issues that better our state and make it more attractive to those looking for a place to live and work.

Senate File 2428 is, therefore, approved on this date with the following exceptions, which I hereby disapprove.

I am unable to approve Section 1, subsection 2, paragraph a, unnumbered paragraph 3. This would require the department of economic development and the small business development centers to develop a written report on services provided by each and identify the distinct services to be provided by the department and the small business development centers and recommend actions that would eliminate any duplication of services. The department and the small business development centers undertook this exercise prior to the last legislative session. It would be more appropriate for them to continue working on resolving issues under consideration from that report than to re-start the process from the beginning.

I am unable to approve the designated portion of Section 12, subsection 5, unnumbered paragraph 2. This prevents the department of workforce development from allocating additional penalty and interest revenues prior to January 30, 2001. In the past, the department has had the flexibility to identify projects or target areas that would receive funding and report these expenditures to the Legislature. The language contained in this bill is unduly prescriptive, usurps normal executive branch functions, and could hamper administration of the fund.

[3] Chapter 1196 herein

I am unable to approve Section 19 in its entirety. This would expand the acceptable uses of the physical infrastructure fund to include program capital costs for the accelerated career education program. Senate File 2453 already provides $5.3 million for accelerated career education program capital projects; the $2.5 million for the physical infrastructure assistance fund should be targeted toward community infrastructure improvement projects, such as, for example, child care facilities, that do not have an alternative funding source.

I am unable to approve Section 27 in its entirety. Subsection 1 would require the information technology services division of the department of general services to study the workforce investment one-stop program and submit a report by January 15, 2001. This issue has already received thorough study, and I believe that there are more productive uses for the division and the department's time. Subsection 2 would require the department of workforce development to submit a written report by August 10, 2000, for a plan for financing the state's system of workforce development centers after the administrative contribution surcharge is repealed. The short timeframe provided for the completion of the study will make it difficult for the department to adequately address these issues as well as those involved in meeting their statutory requirements under Iowa Code section 8.23.

For the above reasons, I hereby respectfully approve Senate File 2428 with the exceptions noted above.

Sincerely,
THOMAS J. VILSACK, *Governor*

CHAPTER 1231

APPROPRIATIONS — ADMINSTRATION AND REGULATION

H.F. 2545

AN ACT relating to and making appropriations to certain state departments, agencies, funds, and certain other entities, providing for regulatory authority, and other properly related matters.

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

Section 1. AUDITOR OF STATE. There is appropriated from the general fund of the state to the office of the auditor of state for the fiscal year beginning July 1, 2000, and ending June 30, 2001, 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:

..... $ 1,397,432
..... FTEs 114.26

The auditor of state may retain additional full-time equivalent positions as is reasonable and necessary to perform governmental subdivision audits which are reimbursable pursuant to section 11.20 or 11.21, to perform audits which are requested by and reimbursable from the federal government, and to perform work requested by and reimbursable from departments or agencies pursuant to section 11.5A or 11.5B. The auditor of state shall notify the department of management, the legislative fiscal committee, and the legislative fiscal bureau of the additional full-time equivalent positions retained.

Sec. 2. IOWA ETHICS AND CAMPAIGN DISCLOSURE BOARD. There is appropriated from the general fund of the state to the Iowa ethics and campaign disclosure board for the fiscal year beginning July 1, 2000, and ending June 30, 2001, 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:

..... $ 501,066
..... FTEs 8.00

Sec. 3. DEPARTMENT OF COMMERCE. There is appropriated from the general fund of the state to the department of commerce for the fiscal year beginning July 1, 2000, and ending June 30, 2001, the following amounts, or so much thereof as is necessary, for the purposes designated:

1. ADMINISTRATIVE SERVICES DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 1,112,127
..... FTEs 17.50

The administrative services division shall assess each division within the department of commerce and the office of consumer advocate within the department of justice a pro rata share of the operating expenses of the administrative services division. The pro rata share shall be determined pursuant to a cost allocation plan established by the administrative services division and agreed to by the administrators of the divisions and the consumer advocate. To the extent practicable, the cost allocation plan shall be based on the proportion of the administrative expenses incurred on behalf of each division and the office of consumer advocate. 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, any state assessed indirect costs determined by the department of revenue and finance, and the cost of services provided by the administrative services division. It is the intent of the general assembly that the director of the department of commerce shall review on a quarterly basis all out-of-state travel for the previous quarter for officers and employees of each division of the department if the travel is not already authorized by the executive council.

2. ALCOHOLIC BEVERAGES DIVISION

a. For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 1,569,380
..... FTEs 24.00

b. For providing education and information to promote compliance with alcoholic beverage laws and rules:

..... $ 25,000

It is the intent of the general assembly that preference shall be given to an Iowa-based transportation business if the bid submitted for a contract to deliver alcoholic beverage products for the alcoholic beverages division is comparable in price to those bids submitted by other bidders and meet the required specifications.

3. BANKING DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 5,852,781
..... FTEs 81.00

From the funds appropriated in this subsection, sixty laptop computers shall be purchased for the division.

4. CREDIT UNION DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 1,227,080
..... FTEs 19.00

5. INSURANCE DIVISION

a. For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 3,794,560
..... FTEs 93.50

b. The insurance division may reallocate authorized full-time equivalent positions as necessary to respond to accreditation recommendations or requirements. The insurance division expenditures for examination purposes may exceed the projected receipts, refunds, and reimbursements, estimated pursuant to section 505.7, subsection 7, including the expenditures for retention of additional personnel, if the expenditures are fully reimbursable and the division first does both of the following:

(1) Notifies the department of management, legislative fiscal bureau, and the legislative fiscal committee of the need for the expenditures.

(2) Files with each of the entities named in subparagraph (1) the legislative and regulatory justification for the expenditures, along with an estimate of the expenditures.

6. PROFESSIONAL LICENSING AND REGULATION DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 869,826
..... FTEs 11.00

7. UTILITIES DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 5,949,707
..... FTEs 75.00

The utilities division may expend additional funds, including funds for additional personnel, if those additional expenditures are actual expenses which exceed the funds budgeted for utility regulation. Before the division expends or encumbers an amount in excess of the funds budgeted for regulation, the director of the department of management shall approve the expenditure or encumbrance. Before approval is given, the director of the department of management shall determine that the regulation expenses exceed the funds budgeted by the general assembly to the division and that the division does not have other funds from which regulation expenses can be paid. Upon approval of the director of the department of management the division may expend and encumber funds for excess regulation expenses. The amounts necessary to fund the excess regulation expenses shall be collected from those utility companies being regulated which caused the excess expenditures, and the collections shall be treated as repayment receipts as defined in section 8.2.

Sec. 4. DEPARTMENT OF COMMERCE — PROFESSIONAL LICENSING AND REGULATION. There is appropriated from the housing improvement fund of the Iowa department of economic development to the division of professional licensing and regulation of the department of commerce for the fiscal year beginning July 1, 2000, and ending June 30, 2001, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For salaries, support, maintenance, and miscellaneous purposes:

..... $ 62,317

Sec. 5. DEPARTMENT OF COMMERCE — PROFESSIONAL LICENSING AND REGULATION — LICENSE FEE REFUND.

1. As used in this section, "department of commerce, professional licensing boards" means the boards or commissions for the engineers and land surveyors under chapter 542B, accountants under chapter 542C, real estate brokers and salespersons under chapter 543B, real estate appraisers under 543D, architects under chapter 544A, and landscape architects under chapter 544B.

2. Notwithstanding the obligation to collect fees pursuant to the provisions of sections 542B.12, 542C.15, 543B.14, 543D.6, 544A.11, and 544B.14, the professional licensing and regulation division may refund all or a portion of these fees to the filer pursuant to rules established by the department of commerce, professional licensing boards. The decision of the division not to issue a refund under rules established by the department of commerce, professional licensing boards is final and not subject to review pursuant to the provisions of the Iowa administrative procedure Act.

Sec. 6. LEGISLATIVE AGENCIES. There is appropriated from the general fund of the state to the following named agencies for the fiscal year beginning July 1, 2000, and ending June 30, 2001, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. COMMISSION ON UNIFORM STATE LAWS

For support of the commission and expenses of the members:

..... $ 25,886

2. NATIONAL CONFERENCE OF STATE LEGISLATURES

For support of the membership assessment:

..... $ 104,314

Sec. 7. NATIONAL CONFERENCE OF INSURANCE LEGISLATORS. There is appropriated from an investor education fund established pursuant to a letter agreement, dated September 8, 1989, between the Drexel Burnham Lambert Group, Inc. and the commissioner of insurance, division of insurance, Iowa department of commerce in settlement of a United States securities and exchange commission complaint, to the national conference of insurance legislators, for the fiscal year beginning July 1, 2000, and ending June 30, 2001, the following amount, or so much thereof as is necessary, to used[1] for the purpose designated:

For support of the membership assessment:

..... $ 5,000

Sec. 8. DEPARTMENT OF GENERAL SERVICES. There is appropriated from the general fund of the state to the department of general services for the fiscal year beginning July 1, 2000, and ending June 30, 2001, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. ADMINISTRATION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 1,967,539

..... FTEs 45.85

2. PROPERTY MANAGEMENT

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 4,556,153

..... FTEs 114.00

3. CAPITOL PLANNING COMMISSION

For expenses of the members in carrying out their duties under chapter 18A:

..... $ 2,000

[1] According to enrolled Act

4. RENTAL SPACE

For payment of lease or rental costs of buildings and office space at the seat of government as provided in section 18.12, subsection 9, notwithstanding section 18.16:

..... $ 1,028,898

5. UTILITY COSTS

For payment of utility costs:

..... $ 2,247,323

Notwithstanding sections 8.33 and 18.12, subsection 11, any excess funds appropriated for utility costs in this subsection shall not revert to the general fund of the state on June 30, 2001, but shall remain available for expenditure for the purposes of this subsection during the fiscal year beginning July 1, 2001.

6. TERRACE HILL OPERATIONS

For salaries, support, maintenance, and miscellaneous purposes necessary for the operation of Terrace Hill and for not more than the following full-time equivalent positions:

..... $ 237,130

..... FTEs 5.00

Sec. 9. REVOLVING FUNDS. There is appropriated from the designated revolving funds to the department of general services for the fiscal year beginning July 1, 2000, and ending June 30, 2001, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. CENTRALIZED PRINTING

From the centralized printing permanent revolving fund established by section 18.57 for salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 1,062,129

..... FTEs 27.30

2. CENTRALIZED PRINTING — REMAINDER

The remainder of the centralized printing permanent revolving fund is appropriated for the expense incurred in supplying paper stock, offset printing, copy preparation, binding, distribution costs, original payment of printing and binding claims and contingencies arising during the fiscal year beginning July 1, 2000, and ending June 30, 2001, which are legally payable from this fund.

3. CENTRALIZED PURCHASING

From the centralized purchasing permanent revolving fund established by section 18.9 for salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 996,098

..... FTEs 17.95

4. CENTRALIZED PURCHASING — REMAINDER

The remainder of the centralized purchasing permanent revolving fund is appropriated for the payment of expenses incurred through purchases by various state departments and for contingencies arising during the fiscal year beginning July 1, 2000, and ending June 30, 2001, which are legally payable from this fund.

5. STATE FLEET ADMINISTRATOR

From the state fleet administrator revolving fund established by section 18.119 for salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 793,327

..... FTEs 16.85

6. STATE FLEET ADMINISTRATOR — REMAINDER

The remainder of the state fleet administrator revolving fund is appropriated for the purchase of ethanol blended fuels and other fuels specified in section 18.115, subsection 5, oil, tires, repairs, and all other maintenance expenses incurred in the operation of state-owned

motor vehicles and for contingencies arising during the fiscal year beginning July 1, 2000, and ending June 30, 2001, which are legally payable from this fund.

It is the intent of the general assembly that a state department or agency receiving appropriations pursuant to this Act shall not expend any of those appropriations to construct, reconstruct, remodel, or repair any structure, commonly referred to as a smoking shelter or hut, on state-owned land outside a state-owned building intended to be used by state employees for smoking purposes.

Sec. 10. GOVERNOR AND LIEUTENANT GOVERNOR. There is appropriated from the general fund of the state to the offices of the governor and the lieutenant governor for the fiscal year beginning July 1, 2000, and ending June 30, 2001, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. GENERAL OFFICE

For salaries, support, maintenance, and miscellaneous purposes for the general office of the governor and the general office of the lieutenant governor, and for not more than the following full-time equivalent positions:

..... $ 1,462,096
..... FTEs 17.25

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:

..... $ 129,517
..... FTEs 3.00

3. ADMINISTRATIVE RULES COORDINATOR

For salaries, support, maintenance, and miscellaneous purposes for the office of administrative rules coordinator, and for not more than the following full-time equivalent positions:

..... $ 140,598
..... FTEs 3.00

4. NATIONAL GOVERNORS ASSOCIATION

For payment of Iowa's membership in the national governors association:

..... $ 68,800

5. STATE-FEDERAL RELATIONS

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 279,960
..... FTEs 3.00

Sec. 11. GUBERNATORIAL STATE GENERAL FUND BUDGET REVIEW AND SAVINGS PROCESS. The governor's fiscal year 2001 state budget assumes that the governor's state budgets for the fiscal years 2001 through 2004 will identify and recommend at least $10 million in savings in the general fund of the state for each of the enumerated fiscal years. The $10 million savings which are identified and recommended, shall not include any statutory changes. The director of the department of management shall provide a detailed, itemized list specifying the $10 million savings which are identified and recommended, to the committees on appropriations by January 15, 2001.

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, 2000, and ending June 30, 2001, the following amounts, or so much thereof as is necessary, for the purposes designated:

1. FINANCE AND SERVICES DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 554,910
..... FTEs 21.00

* Item veto; see message at end of the Act

2. AUDITS DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 477,328
..... FTEs 12.00

3. APPEALS AND FAIR HEARINGS DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 469,262
..... FTEs 30.00

4. INVESTIGATIONS DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 1,012,060
..... FTEs 40.00

5. HEALTH FACILITIES DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 2,453,188
..... FTEs 108.00

6. INSPECTIONS DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 844,004
..... FTEs 15.00

7. EMPLOYMENT APPEAL BOARD

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 33,885
..... FTEs 15.00

The employment appeal board shall be reimbursed by the labor services division of the department of employment services[2] 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.

8. STATE FOSTER CARE REVIEW BOARD

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 790,826
..... FTEs 19.00

The department of human services, in coordination with the state foster care review 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 state foster care review board administrative review costs.

Sec. 13. 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, 2000, and ending June 30, 2001, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For salaries, support, maintenance, and miscellaneous purposes for the regulation of pari-mutuel racetracks, and for not more than the following full-time equivalent positions:

..... $ 2,240,424
..... FTEs 22.36

[2] Department of workforce development probably intended

Of the funds appropriated in this section, $85,576 shall be used to conduct an extended harness racing season.

Sec. 14. 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, 2000, and ending June 30, 2001, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For salaries, support, maintenance, and miscellaneous purposes for administration and enforcement of the excursion boat gambling laws, and for not more than the following full-time equivalent positions:

..... $ 1,472,025
..... FTEs 25.72

Sec. 15. USE TAX APPROPRIATION. There is appropriated from the use tax receipts collected pursuant to sections 423.7 and 423.7A prior to their deposit in the road use tax fund pursuant to section 423.24, to the appeals and fair hearings division of the department of inspections and appeals for the fiscal year beginning July 1, 2000, and ending June 30, 2001, the following amount, or so much thereof as is necessary, for the purposes designated:

For salaries, support, maintenance, and miscellaneous purposes:

..... $ 1,120,142

Sec. 16. DEPARTMENT OF MANAGEMENT. There is appropriated from the general fund of the state to the department of management for the fiscal year beginning July 1, 2000, and ending June 30, 2001, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. GENERAL OFFICE

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 2,262,237
..... FTEs 31.00

From the funds appropriated in this subsection, $100,000 shall be allocated for expenses associated with the redesign of the state budget system.

2. LAW ENFORCEMENT TRAINING REIMBURSEMENTS

For reimbursement to local law enforcement agencies for the training of officers who resign pursuant to section 384.15, subsection 7, except that reimbursable training expenses shall not include tuition:

..... $ 47,500

3. STATEWIDE PROPERTY TAX ADMINISTRATION

For salaries, support, and miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 75,000
..... FTE 1.00

4. COUNCIL OF STATE GOVERNMENTS

For support of the membership assessment:

..... $ 86,554

Sec. 17. IOWA 2010 PROJECT.

1. The remaining balance in the committing the lottery to environment, agriculture, and natural resources fund, also known as the CLEAN fund, which was abolished pursuant to 1999 Iowa Acts, chapter 208, sections 2 through 5, is appropriated to the department of management to pay expenses related to the Iowa 2010 project.

2. The remaining balance in the governor's study on the homeless fund and the governor's youth conference fund are appropriated to the department of management to pay expenses related to the Iowa 2010 project.

Sec. 18. 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, 2000, and

ending June 30, 2001, 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. 19. DEPARTMENT OF PERSONNEL. There is appropriated from the general fund of the state to the department of personnel for the fiscal year beginning July 1, 2000, and ending June 30, 2001, the following amounts, or so much thereof as is necessary, to be used for the purposes designated, including the filing of quarterly reports as required in this section:

1. ADMINISTRATION AND PROGRAM OPERATIONS

For salaries, support, maintenance, and miscellaneous purposes for the director's staff, research, communications and workforce planning services, data processing, and financial services, and for not more than the following full-time equivalent positions:

..... $ 1,833,417

..... FTEs 31.00

2. CUSTOMER SERVICE AND BENEFITS MANAGEMENT

For salaries, support, maintenance, and miscellaneous purposes for customer information and support services, employment law and labor relations, training and benefit programs, and for not more than the following full-time equivalent positions:

..... $ 2,916,481

..... FTEs 57.51

3. INSTITUTE FOR PUBLIC LEADERSHIP

To be credited to the training revolving fund created in section 19A.12 for expenses related to the institute for public leadership:

..... $ 40,000

Any funds received by the department for workers' compensation purposes shall be used only for the payment of workers' compensation claims.

It is the intent of the general assembly that members of the general assembly serving as members of the deferred compensation advisory board shall be entitled to receive per diem and necessary travel and actual expenses pursuant to section 2.10, subsection 5, while carrying out their official duties as members of the board.

Sec. 20. HEALTH INSURANCE REFORM PROGRAM. There is appropriated from the surplus funds in the health insurance premium reserve fund to the department of personnel for the fiscal year beginning July 1, 2000, and ending June 30, 2001, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For the salary and support costs for the insurance reform program and administration costs associated with the health insurance reform effort in Iowa and for not more than the following full-time equivalent positions:

..... $ 544,026

..... FTEs 2.00

Notwithstanding section 8.33, unencumbered or unobligated funds remaining on June 30, 2001, from the funds appropriated in this section, shall revert to the health insurance operating account on June 30, 2001.

Sec. 21. READY TO WORK PROGRAM COORDINATOR. There is appropriated from the surplus funds in the health insurance premium reserve fund and the workers' compensation trust fund to the department of personnel for the fiscal year beginning July 1, 2000, and ending June 30, 2001, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For the salary, support, and miscellaneous expenses for the ready to work program and coordinator, and for not more than the following full-time equivalent positions:

..... $ 89,416

..... FTEs 1.00

The moneys appropriated pursuant to this section shall be taken in equal proportions from the health insurance premium reserve fund and the workers' compensation trust fund.

Notwithstanding section 8.33, unencumbered or unobligated funds remaining on June 30, 2001, from the funds appropriated in this section, shall revert in equal proportions to the health insurance premium reserve fund and the workers' compensation trust fund on June 30, 2001.

Sec. 22. IPERS. There is appropriated from the Iowa public employees' retirement system fund to the department of personnel for the fiscal year beginning July 1, 2000, and ending June 30, 2001, 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 other operational purposes to pay the costs of the Iowa public employees' retirement system division and for not more than the following full-time positions:

..... $ 5,539,567
..... FTEs 77.53

2. IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM MANAGEMENT INFORMATION SYSTEM

For salaries, support, maintenance, and other operational purposes to pay one-time funding for the second year of a two-year project to reengineer the Iowa public employees' retirement system information management system and for not more than the following full-time equivalent positions:

..... $ 1,338,030
..... FTEs 11.00

3. INVESTMENT PROGRAM STAFFING

It is the intent of the general assembly that the Iowa public employees' retirement system division employ sufficient staff within the appropriation provided in this section to meet the developing requirements of the investment program.

Sec. 23. IPERS ENHANCED DISABILITY — DEFINED CONTRIBUTION AND PORTABILITY STUDY. There is appropriated from the Iowa public employees' retirement system fund to the Iowa public employees' retirement system division for the fiscal year beginning July 1, 2000, and ending June 30, 2001, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. If 2000 Iowa Acts, Senate File 2411[3] is enacted and provides enhanced disability for IPERS' public safety members, for expenses relating to the disability provisions:

..... $ 430,411

2. If 2000 Iowa Acts, Senate File 2411[4] is enacted and directs the IPERS division to study methods of providing enhanced portability into and out of IPERS, for expenses related to the study proposal and the implementation of section 24 of this Act:

..... $ 100,000

Sec. 24. GOVERNOR'S TASK FORCE ON IPERS STRUCTURE AND GOVERNANCE STUDY. There is appropriated from the Iowa public employees' retirement system fund to the governor's task force on IPERS structure and governance for the fiscal year beginning July 1, 2000, and ending June 30, 2001, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

To fund a study of the governing structure of the Iowa public employees' retirement system division and make recommendations to the committees on state government and the joint appropriations subcommittee on administration and regulation not later than January 15, 2001:

..... $ 150,000

[3] Chapter 1077 herein
[4] Chapter 1077 herein

The governor's task force shall have four legislative members. Two members shall be members of the senate and two members shall be members of the house of representatives. One member from each house shall be from the majority party and one member from each house shall be from the minority party. The legislative members shall be voting members of the task force.

Sec. 25. PRIMARY ROAD FUND APPROPRIATION. There is appropriated from the primary road fund to the department of personnel for the fiscal year beginning July 1, 2000, and ending June 30, 2001, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For salaries, support, maintenance, and miscellaneous purposes to provide personnel services for the state department of transportation:

..... $ 410,100

Sec. 26. ROAD USE TAX FUND APPROPRIATION. There is appropriated from the road use tax fund to the department of personnel for the fiscal year beginning July 1, 2000, and ending June 30, 2001, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For salaries, support, maintenance, and miscellaneous purposes to provide personnel services for the state department of transportation:

..... $ 66,760

Sec. 27. STATE WORKERS' COMPENSATION CLAIMS. There is appropriated from the general fund of the state to the following state agencies for the fiscal year beginning July 1, 2000, and ending June 30, 2001, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

To fund the premiums for paying workers' compensation claims which are assessed and collected from the state agencies by the department of personnel based upon a rating formula established by the department of personnel.

1. Department of agriculture and land stewardship:
..... $ 39,630
2. Department of agriculture and land stewardship, soil conservation division:
..... $ 11,643
3. State fair board:
..... $ 0
4. Department of justice:
..... $ 10,042
5. Department of justice, prosecuting attorney:
..... $ 454
6. Consumer advocate:
..... $ 3,144
7. Office of auditor of state:
..... $ 1,982
8. Department for the blind:
..... $ 1,299
9. Iowa ethics and campaign disclosure board:
..... $ 544
10. Civil rights commission:
..... $ 2,502
11. Department of commerce, administrative services division:
..... $ 1,195
12. Department of commerce, alcoholic beverages division:
..... $ 1,518
13. Department of commerce, banking division:
..... $ 6,583

14. Department of commerce, credit union division:
..... $ 1,168
15. Department of commerce, insurance division:
..... $ 4,186
16. Department of commerce, professional licensing and regulation division:
..... $ 718
17. Department of commerce, utilities division:
..... $ 6,787
18. First judicial district department of correctional services:
..... $ 28,260
19. Second judicial district department of correctional services:
..... $ 20,205
20. Third judicial district department of correctional services:
..... $ 11,902
21. Fourth judicial district department of correctional services:
..... $ 9,572
22. Fifth judicial district department of correctional services:
..... $ 31,491
23. Sixth judicial district department of correctional services:
..... $ 26,787
24. Seventh judicial district department of correctional services:
..... $ 16,945
25. Eighth judicial district department of correctional services:
..... $ 13,490
26. Department of corrections, central office:
..... $ 5,972
27. Department of corrections, training academy:
..... $ 2,214
28. Department of corrections, Fort Madison:
..... $ 346,501
29. Department of corrections, Anamosa:
..... $ 62,992
30. Department of corrections, Oakdale:
..... $ 77,174
31. Department of corrections, Newton:
..... $ 43,548
32. Department of corrections, Mount Pleasant:
..... $ 85,336
33. Department of corrections, Rockwell City:
..... $ 17,765
34. Department of corrections, Clarinda:
..... $ 100,642
35. Department of corrections, Mitchellville:
..... $ 36,467
36. Department of corrections, industries:
..... $ 0
37. Department of corrections, farm account:
..... $ 0
38. Department of corrections, Fort Dodge:
..... $ 52,228
39. Department of cultural affairs:
..... $ 5,034
40. Department of economic development:
..... $ 8,811

41. Iowa finance authority:
..... $ 0
42. Department of education:
..... $ 16,617
43. Department of education, vocational rehabilitation services division:
..... $ 7,053
44. College student aid commission:
..... $ 679
45. Department of education, public broadcasting division:
..... $ 7,846
46. Department of elder affairs:
..... $ 719
47. Department of workforce development:
..... $ 18,159
48. Department of general services, information technology:
..... $ 9,254
49. Iowa telecommunications and technology commission:
..... $ 0
50. Department of general services:
..... $ 61,428
51. Offices of governor and lieutenant governor:
..... $ 1,956
52. Department of human rights:
..... $ 3,514
53. Department of human services, central office:
..... $ 28,100
54. Department of human services, field operations division:
..... $ 162,751
55. Department of human services, juvenile home — Toledo:
..... $ 26,361
56. Department of human services, training school — Eldora:
..... $ 35,493
57. Department of human services, Cherokee mental health institute:
..... $ 173,163
58. Department of human services, Clarinda mental health institute:
..... $ 62,489
59. Department of human services, Independence mental health institute:
..... $ 250,189
60. Department of human services, Mount Pleasant mental health institute:
..... $ 83,733
61. Department of human services, Glenwood state hospital and school:
..... $ 63,821
62. Department of human services, Woodward state hospital and school:
..... $ 43,148
63. Department of human services, enhanced services division:
..... $ 870
64. Department of human services, inspections and appeals:
..... $ 12,413
65. Department of human services, inspections and appeals, appellate defender:
..... $ 25,866
66. Department of human services, inspections and appeals, state racing and gaming commission:
..... $ 4,654

67. Judicial branch:
..... $ 129,808
68. Iowa law enforcement academy:
..... $ 6,566
69. Iowa house of representatives:
..... $ 10,025
70. Iowa senate:
..... $ 9,816
71. Office of citizens aide/ombudsman:
..... $ 2,095
72. Legislative computer support bureau:
..... $ 1,652
73. Legislative fiscal bureau:
..... $ 3,657
74. Legislative service bureau:
..... $ 5,216
75. Administrative rules review committee:
..... $ 112
76. Department of management:
..... $ 2,788
77. Department of natural resources:
..... $ 73,606
78. State parole board:
..... $ 1,459
79. Department of personnel:
..... $ 5,652
80. Public employees relations board:[5]
..... $ 1,126
81. Department of public defense:
..... $ 50,304
82. Department of public defense, emergency management division:
..... $ 683
83. Department of public health:
..... $ 16,775
84. Department of public safety:
..... $ 81,203
85. Department of public safety, Iowa state patrol:
..... $ 207,491
86. State board of regents:
..... $ 3,982
87. Iowa state university of science and technology:
..... $ 630,096
88. State university of Iowa:
..... $ 770,293
89. University of northern Iowa:
..... $ 430,579
90. Iowa school for the deaf:
..... $ 43,806
91. Iowa braille and sight saving school:
..... $ 18,599
92. Department of revenue and finance:
..... $ 73,019
93. Lottery board:
..... $ 0

[5] Public employment relations board probably intended

94. Office of secretary of state:
..... $ 2,625
95. Drug enforcement and abuse prevention coordinator:
..... $ 397
96. Iowa department of transportation:
..... $ 2,443
97. Office of treasurer of state:
..... $ 1,738
98. Veterans affairs commission:
..... $ 850,122

Notwithstanding section 8.39, subsections 1, 3, and 4, the department of management may allocate the premiums appropriated in this section to the appropriate offices, divisions, or subdivisions within each state agency as necessary to pay workers' compensation premiums.

The premiums collected by the department of personnel shall be segregated into a separate workers' compensation fund in the state treasury to be used for payment of state employees' workers' compensation claims. Notwithstanding section 8.33, unencumbered or unobligated moneys remaining in this workers' compensation fund at the end of the fiscal year shall not revert but shall be available for expenditure for purposes of the fund for subsequent fiscal years.

It is the intent of the general assembly that any funds received by the department of personnel for workers' compensation purposes other than funds appropriated in this section shall be used for the payment of workers' compensation claims and administrative costs.

For the fiscal year 2002, the department of personnel shall not request an appropriation from the general fund of the state to pay premiums for workers' compensation claims. The premiums for payment of workers' compensation claims shall be assessed to and collected from state agencies from the appropriations made to the state agencies.

Sec. 28. DEPARTMENT OF REVENUE AND FINANCE. There is appropriated from the general fund of the state to the department of revenue and finance for the fiscal year beginning July 1, 2000, and ending June 30, 2001, the following amounts, or so much thereof as is necessary, to be used for the purposes designated, and for not more than the following full-time equivalent positions used for the purposes designated in subsections 1 through 3:
..... FTEs 508.05

1. COMPLIANCE
For salaries, support, maintenance, and miscellaneous purposes:
..... $ 10,735,295
2. STATE FINANCIAL MANAGEMENT
For salaries, support, maintenance, and miscellaneous purposes:
..... $ 11,416,309
3. INTERNAL RESOURCES MANAGEMENT
For salaries, support, maintenance, and miscellaneous purposes:
..... $ 6,509,988
4. COLLECTION COSTS AND FEES
For payment of collection costs and fees pursuant to section 422.26:
..... $ 67,000
5. STATEWIDE PROPERTY TAX ADMINISTRATION
For salaries, support, and miscellaneous purposes:
..... $ 75,000

The director of revenue and finance may charge a fee to recover the direct costs of administration related to the collection and distribution of a local sales and services tax imposed pursuant to chapters 422B and 422E. The fee revenue shall be treated as repayment receipts as defined in section 8.2 and shall be used to pay the direct costs of administering chapters 422B and 422E.

* Item veto; see message at end of the Act

The director of revenue and finance shall prepare and issue a state appraisal manual and the revisions to the state appraisal manual as provided in section 421.17, subsection 18, without cost to a city or county.

Sec. 29. LOTTERY. There is appropriated from the lottery fund to the department of revenue and finance for the fiscal year beginning July 1, 2000, and ending June 30, 2001, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For salaries, support, maintenance, miscellaneous purposes for the administration and operation of lottery games, and for not more than the following full-time equivalent positions:

.....	$	8,288,814
.....	FTEs	117.00

Sec. 30. MOTOR VEHICLE FUEL TAX APPROPRIATION. There is appropriated from the motor fuel tax fund created by section 452A.77 to the department of revenue and finance for the fiscal year beginning July 1, 2000, and ending June 30, 2001, 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:

.....	$	992,986

Sec. 31. 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, 2000, and ending June 30, 2001, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. ADMINISTRATION AND ELECTIONS

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	$	776,749
.....	FTEs	10.00

Of the funds appropriated in this subsection, not less than $20,000 shall be expended to support the Iowa student political awareness club.

It is the intent of the general assembly that the secretary of state invite the legislators representing local school districts to join with the secretary in citizenship forums to educate students of the importance of participating in the political process.

It is the intent of the general assembly that the state department or state agency which provides data processing services to support voter registration file maintenance and storage shall provide those services without charge.

2. BUSINESS SERVICES

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	$	1,835,311
.....	FTEs	32.00

3. OFFICIAL REGISTER

For costs incurred in the printing of the official register:

.....	$	5,000

4. DECENNIAL REDISTRICTING

For costs associated with decennial redistricting:

.....	$	25,000

Sec. 32. SECRETARY OF STATE FILING FEES REFUND. Notwithstanding the obligation to collect fees pursuant to the provisions of section 490.122, subsection 1, paragraphs "a" and "s" and section 504A.85, subsections 1 and 9, the secretary of state may refund these fees to the filer pursuant to rules established by the secretary of state. The decision of the secretary of state not to issue a refund under rules established by the secretary of state is final and not subject to review pursuant to the provisions of the Iowa administrative procedure Act.

Sec. 33. TREASURER. There is appropriated from the general fund of the state to the office of treasurer of state for the fiscal year beginning July 1, 2000, and ending June 30, 2001, the following amounts, 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:

..... $ 1,158,904
..... FTEs 25.80

Of the moneys remaining on June 30, 2000, in the administrative fund established in section 12D.4A,[6] $150,000 shall not revert to the general fund of the state but shall be carried forward to the fiscal year beginning July 1, 2000, and may be expended for establishing an automated distribution system for educational savings plan benefits.

The office of treasurer of state shall supply clerical and secretarial support for the executive council.

Sec. 34. ELIMINATION OF VACANT UNFUNDED JOBS. Within sixty days after an unfunded vacancy occurs, a state department, agency, or office receiving appropriations under this Act shall eliminate the vacant unfunded position from the table of organization of the state department, agency, or office.

Sec. 35. Section 73.16, subsection 2, Code 1999, is amended by adding the following new unnumbered paragraph after unnumbered paragraph 1:

NEW UNNUMBERED PARAGRAPH. The director of each agency or department of state government having purchasing authority shall issue electronic bid notices for distribution to the targeted small business web page located at the department of economic development if the director releases a solicitation for bids for procurement of equipment, supplies, or services. The notices shall be provided to the targeted small business marketing manager forty-eight hours prior to the issuance of all bid notices. The notices shall contain a description of the subject of the bid, a point of contact for the bid, and any subcontract goals included in the bid.

Sec. 36. Section 99B.11, subsection 2, Code 1999, is amended by adding the following new paragraph:

NEW PARAGRAPH. e. A video machine golf tournament game which is an interactive bona fide contest. A player operates a video machine golf tournament game with a trackball assembly which acts as the golfer's swing and determines the results of play and tournament scores. A video machine golf tournament game is capable of receiving program and data information from an off-site location. A tournament operator shall prominently display all tournament rules.

Sec. 37. Section 99F.4, Code 1999, is amended by adding the following new subsection:

NEW SUBSECTION. 22. To provide that a licensee prominently display at each gambling facility the annual percentage rate of state and local tax revenue collected by state and local government from the gambling facility annually.

**Sec. 38. Section 232.190, subsection 3, Code 1999, is amended to read as follows:*

3. Applications for moneys from the community grant fund shall define the geographical boundaries of the site chosen to benefit from the funds from this program and shall demonstrate a collaborative effort by all relevant local government and school officials and service agencies with authority, responsibilities, or other interests within the chosen site. Proposed plans set forth in the applications shall reflect a community-wide consensus in how to remediate community problems related to juvenile crime and shall describe how the funds from this program will be used in a manner consistent with the human investment strategy of the state ~~as developed pursuant to section 8A.1~~. Services provided under a grant through this program shall be comprehensive and utilize flexible delivery systems. The division shall

[6] Iowa Code section 12D.4 probably intended

* Item veto; see message at end of the Act

*establish a point system for determining eligibility for grants from the fund based upon the nature and breadth of the proposed community juvenile crime prevention plans and the extent to which the proposals include viable plans to sustain the funding and local governance of the proposed juvenile crime prevention services and activities following the proposed grant period.**

Sec. 39. Chapter 8A and section 12D.4A, Code Supplement 1999, are repealed.

Approved May 19, 2000, with exceptions noted.

THOMAS J. VILSACK, *Governor*

Dear Mr. Secretary:

I hereby transmit House File 2545, an Act relating to and making appropriations to certain state departments, agencies, funds, and certain other entities, providing for regulatory authority, and other properly related matters.

Iowans expect and deserve government that is accountable. The administration and regulation appropriations bill provides funding for the agencies and offices that keep the rest of government running as smoothly and efficiently as possible.

The state departments included in this bill include the Department of Management, the Department of Personnel, the Department of General Services, the Department of Commerce, the Department of Inspections and Appeals including the State Foster Care Review Board and the Iowa Racing and Gaming Commission, and the Department of Revenue and Finance. State offices included in this bill include the Office of the Governor and the Lieutenant Governor, the Auditor of State, the Secretary of State, the Treasurer of State, and the Ethics and Campaign Disclosure Board.

There are many services that aid government efficiency and provide important services to Iowans in this bill. Among these are: inspections for nursing homes ensure that residents receive good care, and inspections for grocery stores and restaurants give us confidence that Iowans can enjoy a safe food supply. The Secretary of State's Iowa Student Political Awareness Club serves a vital purpose because it educates young people about democracy and the political process, and I sincerely hope we can build on this in the future. The Secretary of State's money back guarantee for corporate filings demonstrates our confidence that we provide Iowa's businesses with a high quality of services.

My recommended budget centered on making sound investments to promote an accountable government. I am therefore disappointed that the Legislature failed to fund the Medicaid fraud investigator in my recommended budget, since this would have saved the State of Iowa several hundred thousand dollars through recoveries and prevented Medicaid fraud at a cost to the State of only $16,033.

House File 2545 is, therefore, approved on this date with the following exceptions, which I hereby disapprove.

I am unable to approve Section 9, subsection 6, unnumbered paragraph 2 in its entirety. This is language that prohibits certain state agencies from spending appropriated funds to construct or repair employee smoking shelters. The Department of General Services began this

* Item veto; see message at end of the Act

pilot project in an attempt to solve some of the problems associated with employees and visitors who are required to go outside in order to smoke. These shelters ensure that building entrances are cleaner, are less cluttered and remain free of second hand smoke. The Department reports that employee acceptance of the shelters is encouraging.

I am unable to approve Section 11 in its entirety. This language calls for the Governor to identify and recommend at least $10 million in General Fund savings each year for four years beginning in FY 2001 and ending in FY 2004. During the 2000 legislative session, I recommended, and the Legislature approved, a fiscal year 2000 General Fund budget savings proposal totaling $19 million. For FY 2001, I recommended nearly $27 million in budget reductions in addition to $20 million in budget reallocations. I support the Legislature's intent in this language of generating at least $10 million in General Fund savings annually for four years. However, we disagree on the statutory limits placed into this language.

I am unable to approve Section 27, unnumbered paragraph 5 in its entirety. This language prohibits the Department of Personnel from requesting a General Fund appropriation for FY 2002 to pay premiums for workers' compensation claims. While I applaud the Legislature's efforts to return some control over workers' compensation claims back to all state agencies, I believe this prohibition against the Department of Personnel unfairly handicaps the agency from reacting to potential unforeseen increases in workers' compensation claim costs. The Department will still provide a centralized workers' compensation management and oversight function. In this capacity, they are better suited to request and distribute additional workers' compensation funding, if needed, when compared to the alternative which would involve piecemeal appropriations on an agency by agency basis.

I am unable to approve Section 34 in its entirety. I am concerned that the language in Section 34 would create a different standard for the departments and agencies funded in this bill than others in state government. While I share the Legislature's concern with vacant unfunded positions in state government, I believe that we must develop an enterprise-wide approach to this issue.

I am unable to approve Section 38 in its entirety. The Health and Human Rights appropriation bill, Senate File 2429, which I signed into law on May 8, 2000, contained amendments to Section 232.190, which removed the reference to Chapter 8A among other operations. My approval of corresponding provisions in Senate File 2429 render this change proposed in Section 38 duplicative and therefore unnecessary.

For the above reasons, I hereby respectfully approve House File 2545 with the exceptions noted above.

Sincerely,
THOMAS J. VILSACK, *Governor*

CHAPTER 1232

MISCELLANEOUS APPROPRIATIONS AND OTHER PROVISIONS

S.F. 2452

AN ACT relating to public expenditure and regulatory matters, making appropriations, and including effective date and retroactive applicability provisions.

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

DIVISION I
MH/MR/DD ALLOWED GROWTH

Section 1. COUNTY MENTAL HEALTH, MENTAL RETARDATION, AND DEVELOPMENTAL DISABILITIES ALLOWED GROWTH FACTOR ADJUSTMENT AND ALLOCATIONS. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 2001, and ending June 30, 2002, 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, in accordance with section 331.438, subsection 2, and section 331.439, subsection 3, and chapter 426B:

..... $ 26,492,712

The funding appropriated in this section is the allowed growth factor adjustment for fiscal year 2001-2002, and is allocated as follows:

1. For distribution to counties for fiscal year 2001-2002 in accordance with the formula in section 331.438, subsection 2, paragraph "b":

..... $ 12,000,000

2. For deposit in the per capita expenditure target pool created in the property tax relief fund pursuant to section 426B.5, subsection 1:

..... $ 10,492,712

In addition to the requirement of section 426B.5, subsection 1, paragraph "c", limiting eligibility for moneys appropriated in this paragraph to counties levying the maximum amount allowed, both of the following eligibility requirements are applicable:

a. In the fiscal year beginning July 1, 2000, the county's services fund ending balance under generally accepted accounting principles was equal to or less than 35 percent of the county's projected expenditures for that fiscal year.

b. The county is in compliance with the filing date requirements under section 331.403.

3. For deposit in the incentive and efficiency pool created in the property tax relief fund pursuant to section 426B.5, subsection 2:

..... $ 2,000,000

4. For deposit in the risk pool created in the property tax relief fund pursuant to section 426B.5, subsection 3:

..... $ 2,000,000

Sec. 2. Section 426B.5, subsection 3, paragraph c, subparagraph (4), Code 1999, is amended to read as follows:

(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 mental health, mental retardation, and developmental disabilities services fund under section 331.424A shall be required to repay the risk pool assistance ~~in~~ during the two succeeding fiscal ~~year~~ years. The repayment amount shall be limited to the amount by which the actual amount levied was less than the maximum amount allowed.

Sec. 3. EFFECTIVE DATE. Section 2 of this division of this Act, being deemed of immediate importance, takes effect upon enactment.

Sec. 4. 2000 Iowa Acts, House File 2555,[1] section 3, subsection 2, is amended by adding the following new paragraph:

NEW PARAGRAPH. d. A POS provider that has negotiated a reimbursement rate increase with a host county as of July 1, 2000, has the option of exemption from the provisions of this section. Nothing in this section precludes a county from increasing reimbursement rates of POS providers that do not meet the criteria of this section or from increasing the rates by an amount that is greater than that specified in this section.

Sec. 5. Section 331.424A, subsection 6, paragraph c, as enacted by 2000 Iowa Acts, House File 2327,[2] section 1, is amended to read as follows:

c. If a capital asset is owned by the county or the acquisition cost is charged to the county's general fund and the capital asset is used in part for a purpose payable from the county's services fund, the county's services fund shall annually reimburse the county's general fund for the use of the capital asset. For capital assets acquired on or after July 1, ~~2000~~ 2001, and for subsequent improvements of those capital assets, the reimbursement amount shall be in accordance with comparable federally approved depreciation schedules. For capital assets for which appropriations were included in the county budget prior to July 1, ~~2000~~ 2001, and for subsequent improvements of those capital assets, the reimbursement amount shall be the current fair market rate for use of the capital asset, as determined by an independent real estate appraiser.

Sec. 6. 2000 Iowa Acts, House File 2327,[3] section 5, subsection 2, is amended to read as follows:

2. If, as of ~~the effective date of this Act~~ April 13, 2000, a county's base year expenditures includes expenditures for acquisition of a capital asset that effective July 1, 2001, are to be charged to the county's general fund in accordance with section 331.424A, subsection 6, as enacted by this Act, the county shall petition the county finance committee by ~~April 30~~ December 1, 2000, to approve an adjustment in the county's base year expenditures in an amount equal to those capital asset expenditures. The amount of the county's base year expenditures shall be adjusted in accordance with the county finance committee's action.

Sec. 7. 2000 Iowa Acts, House File 2327,[4] section 5, subsection 3, is amended by striking the subsection.

Sec. 8. 2000 Iowa Acts, House File 2327,[5] section 5, subsection 4, is amended to read as follows:

4. If before ~~the effective date of this section~~ April 13, 2000, the ownership or acquisition costs of a county's capital asset used in part for a purpose payable from the county's services fund were accrued to the county's services fund, beginning ~~with the effective date of this Act~~ July 1, 2001, any appropriations or revenues attributable to that capital asset shall instead be accrued to the county's general fund. Except as expressly authorized by this Act, the county shall not make any adjustment to the county's services fund or general fund to remunerate the services fund for such appropriations or revenues that were accrued to the services fund before the transfer of accrual to the general fund.

Sec. 9. 2000 Iowa Acts, House File 2327,[6] section 6, is amended to read as follows:

SEC. 6. EFFECTIVE AND APPLICABILITY DATES. This Act, being deemed of immediate importance, takes effect upon enactment. The amendments to section 331.424A, 331.427, and 331.438, and the transition section in this Act are first applicable to county budgets and levies in effect for the fiscal year beginning July 1, ~~2000~~ 2001, and ending June 30, ~~2001~~ 2002.

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[1] Chapter 1221 herein
[2] Chapter 1090 herein
[3] Chapter 1090 herein
[4] Chapter 1090 herein
[5] Chapter 1090 herein
[6] Chapter 1090 herein

Sec. 10. EFFECTIVE DATE — RETROACTIVE APPLICABILITY. The sections in this division of this Act amending 2000 Iowa Acts, House File 2327,[7] being deemed of immediate importance, take effect upon enactment and are retroactively applicable to April 13, 2000.

DIVISION II
TOBACCO FUNDS — TRANSFER AND CASH FLOW

Sec. 11. TRANSFER OF FUNDS — TOBACCO SETTLEMENT FUND. From moneys deposited in the tobacco settlement fund created in section 12.65, the sum of sixty-four million six hundred thousand dollars is transferred to the general fund of the state for the fiscal year beginning July 1, 2000, and ending June 30, 2001.

Sec. 12. Section 12.65, Code 1999, is amended by striking the section and inserting in lieu thereof the following:

12.65 TOBACCO SETTLEMENT ENDOWMENT FUND.

1. A tobacco settlement endowment fund is created in the office of the treasurer of state. After payment of litigation costs, all moneys paid to the state pursuant to the master settlement agreement, as defined in section 453C.1, shall be deposited in the fund.

2. Any moneys paid to the state by the tobacco settlement authority pursuant to chapter 12E shall be deposited in the fund. Additionally, the state's share of the moneys which are not sold to the tobacco settlement authority pursuant to chapter 12E shall be deposited in the fund.

3. Moneys deposited in the fund shall be used only in accordance with appropriations from the fund for purposes related to health care, substance abuse treatment and enforcement, tobacco use prevention and control, and other purposes related to the needs of children, adults, and families in the state.

4. A savings account for healthy Iowans is created within the tobacco settlement endowment fund. Moneys, appropriated annually, shall be deposited in the account and shall be invested to provide an ongoing source of investment earnings.

5. Notwithstanding section 8.33, any unexpended balance in the fund at the end of the fiscal year shall be retained in the fund. Notwithstanding section 12C.7, subsection 2, interest or earnings on investments or time deposits of the moneys in the tobacco settlement endowment fund, in the savings account for healthy Iowans, and in any other account established within the fund shall be credited to the tobacco settlement endowment fund, to the savings account for healthy Iowans, or to any other account established, respectively.

6. For the purposes of this section, "litigation costs" are those costs itemized by the attorney general and submitted to and approved by the attorney general.

7. Moneys in the fund shall be considered part of the general fund of the state for cash flow purposes only, provided any moneys used for cash flow purposes are returned to the fund by the close of each fiscal year.

Sec. 13. Section 12E.3, subsection 7, if enacted by 2000 Iowa Acts, House File 2579,[8] is amended to read as follows:

7. "Program plan" means the tobacco settlement program plan established in this chapter ~~to provide for the implementation of the findings and purposes of this chapter~~.

Sec. 14. Section 12E.4, subsection 2, paragraph i, if enacted by 2000 Iowa Acts, House File 2579,[9] is amended to read as follows:

i. To implement the purposes of this chapter ~~as stated in the findings of the general assembly in section 12E.2~~.

Sec. 15. The sections in this division of this Act amending sections 12E.3 and 12E.4, being deemed of immediate importance, take effect upon enactment.

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[7] Chapter 1090 herein
[8] Chapter 1208, §2 herein
[9] Chapter 1208, §3 herein

Sec. 16. REFERENCES. References to the tobacco settlement fund in other enactments of the 2000 Session of the Seventy-eighth Iowa General Assembly, are references to the tobacco settlement endowment fund.

Sec. 17. CONDITIONAL EFFECTIVENESS. Section 12.65, subsection 2, as enacted in this division of this Act, takes effect only if 2000 Iowa Acts, House File 2579[10] is enacted.

DIVISION III
REDUCTION IN PHASE III MONEYS

Sec. 18. Section 294A.25, subsection 1, Code Supplement 1999, is amended to read as follows:

1. For the fiscal year beginning July 1, ~~1998~~ 2000, and for each succeeding year, there is appropriated from the general fund of the state to the department of education the amount of ~~eighty-two~~ eighty million eight hundred ninety-one thousand three hundred thirty-six dollars to be used to improve teacher salaries. The moneys shall be distributed as provided in this section.

DIVISION IV
MICROSOFT FUND

**Sec. 19. NEW SECTION. 12.67 MICROSOFT SETTLEMENT FUND.*

A Microsoft settlement fund is created in the office of the treasurer of state. The state portion of any moneys paid to the state by Microsoft in settlement of its federal antitrust trial or the state's antitrust lawsuit shall be deposited in the Microsoft settlement fund. Moneys deposited in the fund shall be used only as provided in appropriations made by the general assembly.

*Notwithstanding section 12C.7, subsection 2, interest or earnings on moneys in the Microsoft settlement fund shall be credited to the Microsoft settlement fund.**

DIVISION V
WASTE REDUCTION CENTER — NONREVERSION

Sec. 20. Notwithstanding section 8.33, moneys appropriated in 1999 Iowa Acts, chapter 208, section 25, to the state board of regents for the purpose of the Iowa waste reduction center at the university of northern Iowa that remain unencumbered or unobligated at the close of the fiscal year beginning July 1, 1999, shall not revert but shall remain available for expenditure for the purpose for which the moneys were appropriated until the close of the fiscal year beginning July 1, 2000.

Sec. 21. EFFECTIVE DATE. This division of this Act, being deemed of immediate importance, takes effect upon enactment.

DIVISION VI
MISCELLANEOUS

Sec. 22. NEW SECTION. 12C.26 REFUND FROM SINKING FUNDS.

Upon recovery of a loss of public funds due to a failed Iowa financial institution, the treasurer of state may refund all or a portion of the recovered amount to the Iowa financial institutions that paid an assessment under this chapter as a result of that failure.

Sec. 23. Section 100B.1, subsection 1, as enacted by 2000 Iowa Acts, House File 2492,[11] section 8, is amended to read as follows:

1. The state fire service and emergency response council is established in the division of fire protection of the department of public safety. The council shall consist of ~~ten~~ eleven

[10] Chapter 1208 herein
* Item veto; see message at end of the Act
[11] Chapter 1117 herein

voting members. Members of the state fire service and emergency response council shall be appointed by the governor. The governor shall appoint members ~~from the following organizations, chosen~~ of the council from a list of ~~names~~ nominees submitted by each of the following organizations:

a. Two members from a list submitted by the Iowa firemen's association.
b. Two members from a list submitted by the Iowa fire chiefs' association.
c. One member from a list submitted by the Iowa association of professional fire fighters.
d. Two members from a list submitted by the Iowa association of professional fire chiefs.
e. One member from a list submitted by the Iowa fire fighters group.
f. One member from a list submitted by the Iowa emergency medical services association.

A person nominated for membership on the council is not required to be a member of the organization that nominates the person.

The tenth ~~member~~ and eleventh members of the council shall be ~~a member~~ members of the general public appointed by the governor.

The labor commissioner, or the labor commissioner's designee, shall be a nonvoting ex officio member of the council. Members of the council shall hold office commencing July 1, 2000, for four years and until their successors are appointed, except that three initial appointees shall be appointed for two years, ~~three~~ four initial appointees for three years, and four initial appointees for four years.

The fire marshal or the fire marshal's designee shall attend each meeting of the council.

Sec. 24. Section 166D.7, subsection 4, paragraph a, Code 1999, as amended by 2000 Iowa Acts, Senate File 2312,[12] section 10, is amended to read as follows:

a. The herd shall be certified when one hundred percent of breeding swine have reacted negatively to a test. The herd must have been free from infection for thirty days prior to testing. At least ninety percent of swine in the herd must have been on the premises as a part of the herd for at least sixty days prior to testing, or swine in the herd must have been directly moved or relocated from a qualified negative herd or qualified differentiable negative herd. A differentiable vaccine must be administered at intervals in accordance with the package insert for that vaccine. To remain certified, the herd must be retested and recertified as provided by the department. The herd shall be recertified when each ~~thirty days~~ month at least ~~twenty-five~~ ten percent of the herd's breeding swine react negatively to a test.

Sec. 25. Section 256E.2, subsection 2, Code Supplement 1999, is amended to read as follows:

2. The department shall adopt rules concerning the grant application and award process, including reasonable cost estimates for beginning teacher induction programs. The department may disapprove a plan submitted by a board if the plan does not meet the minimum criteria set forth in section 256E.3, subsection 2, or the plan exceeds the reasonable costs as determined by the department. If the cost estimates submitted by a board exceed reasonable cost estimates as determined by the department, the department shall work with the board to identify measures for reducing plan costs. If the department determines that moneys appropriated by the general assembly are insufficient to meet the grant requests for all approved beginning teacher induction program plans, the department shall award grants based on the ~~geographic location and~~ district population of the school districts with approved plans. Grants may be awarded in subsequent years based upon the most recent plan on file with the department. It is the intent of the general assembly that the department approve plans that incorporate local innovation and take into consideration local needs.

Sec. 26. Section 322A.11, Code 1999, is amended by adding the following new subsection:

NEW SUBSECTION. 5. The fact that the dealership does not meet an index or standard established by the franchiser, unless the franchiser proves that the failure of the dealership to meet the index or standard will be substantially detrimental to the distribution of the franchiser's motor vehicles in the community.

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[12] Chapter 1110 herein

Sec. 27. Section 421.38, subsection 1, paragraph a, Code 1999, is amended to read as follows:

a. ~~TIME AND~~ FUNDING LIMIT. A claim shall not be allowed by the department of revenue and finance if ~~either of the following has occurred:~~

~~(1) The claim is presented after the lapse of three months from its accrual.~~

~~(2) The~~ the appropriation or fund of certification available for paying the claim has been exhausted or proves insufficient.

Sec. 28. Section 421.38, subsection 1, paragraph b, unnumbered paragraph 1, Code 1999, is amended to read as follows:

The ~~time limitation set forth in paragraph "a", subparagraph (1),~~ authority of the director is subject to the following exceptions:

Sec. 29. Section 554D.104, subsection 4, as enacted by 2000 Iowa Acts, House File 2205,[13] is amended to read as follows:

4. A choice of law provision~~, which is contained~~ in a computer information agreement ~~that governs a transaction subject to this chapter, that~~ which provides that the contract is to be interpreted pursuant to the laws of a state that has enacted the uniform computer information transactions Act, as proposed by the national conference of commissioners on uniform state laws, or any substantially similar law, is voidable and the agreement shall be interpreted pursuant to the laws of this state if the party against whom enforcement of the choice of law provision is sought is a resident of this state or has its principal place of business located in this state. For purposes of this subsection, a "computer information agreement" means an agreement that would be governed by the uniform computer information transactions Act or substantially similar law as enacted in the state specified in the choice of laws provision if that state's law were applied to the agreement.

**Sec. 30. 2000 Iowa Acts, Senate File 2453, section 5, subsection 2, is amended to read as follows:*

2. For facility utilization review services including a program statement, site recommendations, schematic designs, and other design development for additional facilities which will meet laboratory, office, and other facility needs of state agencies, including but not limited to interim ~~or long-term~~ leasing and relocation needs related to such projects, notwithstanding section 8.57, subsection 5, paragraph "c":

..... $ *3,200,000**

Sec. 31. 2000 Iowa Acts, Senate File 2453,[14] section 5, subsection 3, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The department shall adhere to the competitive bidding requirements of chapter 18 for all routine maintenance projects having a total cost of $25,000 or more.

Sec. 32. 2000 Iowa Acts, House File 2533,[15] section 28, subsections 2 and 29, are amended to read as follows:

2. For school lunch program, grant number 10555:

..... $ ~~50,293,658~~
50,075,000

29. For education of handicapped — infants and toddlers, grant number 84181:

..... $ ~~2,869,783~~
2,863,283

[13] Chapter 1189, §4 herein

* Item veto; see message at end of the Act

[14] Chapter 1225 herein

[15] Chapter 1220 herein

Sec. 33. 2000 Iowa Acts, House File 2533,[16] section 38, is amended to read as follows:

SEC. 38. 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, 2000, and ending June 30, 2001, are appropriated to the judicial branch for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law. The following ~~amount is~~ amounts are appropriated to the judicial branch for the fiscal year beginning July 1, 2000, and ending June 30, 2001:

1. For United States department of health and human services, grant number 13000:
..... $ 150,000

2. For United States department of justice, grant number 16000:
..... $ 177,028

Sec. 34. 2000 Iowa Acts, House File 2533,[17] section 39, subsection 1, is amended to read as follows:

1. For United States department of justice, grant number 16000:
..... $ ~~28,988~~
5,450,000

Sec. 35. 2000 Iowa Acts, House File 2533,[18] section 47, is amended by adding the following new subsections:

NEW SUBSECTION. 34. For United States department of justice, grant number 16000:
..... $ 28,988

NEW SUBSECTION. 35. For state and community highway safety, grant number 20600:
..... $ 90,000

NEW SUBSECTION. 36. For education of handicapped — infants and toddlers, grant number 84181:
..... $ 6,500

Sec. 36. 2000 Iowa Acts, House File 2533,[19] section 48, subsections 2 and 4, are amended to read as follows:

2. For department of justice, grant number 16000:
..... $ ~~6,684,071~~
1,017,293

4. For state and community highway safety, grant number 20600:
..... $ ~~2,534,863~~
2,444,863

Sec. 37. 2000 Iowa Acts, House File 2533,[20] section 49, subsection 4, is amended to read as follows:

4. For school lunch program, grant number 10555:
..... $ ~~10,010~~
228,668

Sec. 38. 2000 Iowa Acts, House File 475,[21] section 5, is repealed.

Sec. 39. EFFECTIVE DATE. The section in this division of this Act amending section 166D.7, being deemed of immediate importance, takes effect upon enactment.

Sec. 40. EFFECTIVE DATE — RETROACTIVE APPLICABILITY. The section in this division of this Act enacting section 12C.26, being deemed of immediate importance, takes effect upon enactment and applies retroactively to refunds of assessments collected under chapter 12C on or after January 1, 2000.

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[16] Chapter 1220 herein
[17] Chapter 1220 herein
[18] Chapter 1220 herein
[19] Chapter 1220 herein
[20] Chapter 1220 herein
[21] Chapter 1188 herein

DIVISION VII
CORRECTIVE AMENDMENTS

Sec. 41. Section 2D.3, as enacted by 2000 Iowa Acts, House File 2442,[22] section 3, is amended to read as follows:

2D.3 LEGISLATIVE BRANCH PROTOCOL OFFICER.

The legislative service bureau shall employ a legislative branch protocol officer to coordinate activities related to state, national, and international visitors to the state capitol or with an interest in the general assembly, and related to travel of members of the general assembly abroad. The protocol officer shall serve in a consultative capacity and shall provide staff support to the international relations advisory council. The protocol officer shall also work with the executive branch protocol officer to coordinate state, national, and international relations activities. The legislative branch protocol officer shall submit periodic reports to the international relations committee of the legislative council regarding the visits of state, national, and international visitors and regarding international activities.

Sec. 42. Section 12.73, subsection 1, as enacted by 2000 Iowa Acts, Senate File 2447,[23] section 17, is amended to read as follows:

1. It is the intention of the general assembly that a pledge made in respect of bonds or notes shall be valid and binding from the time the pledge is made, that the money or property so pledged and received after the pledge by the ~~authority~~ treasurer of state shall immediately be subject to the lien of the pledge without physical delivery or further act, and that the lien of the pledge shall be valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the treasurer of state whether or not the parties have notice of the lien.

Sec. 43. Section 12.83, as enacted by 2000 Iowa Acts, Senate File 2447,[24] section 23, is amended to read as follows:

12.83 PLEDGES.

1. It is the intention of the general assembly that a pledge made in respect of bonds or notes shall be valid and binding from the time the pledge is made, that the money or property so pledged and received after the pledge by the ~~authority~~ treasurer of state shall immediately be subject to the lien of the pledge without physical delivery or further act, and that the lien of the pledge shall be valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the treasurer of state whether or not the parties have notice of the lien.

2. The state pledges to and agrees with the holders of bonds or notes issued under section 12.81, that the state will not limit or alter the rights and powers vested in the treasurer of state to fulfill the terms of a contract made by the treasurer of state with respect to the bonds or notes, or in any way impair the rights and remedies of the holders until the bonds and notes, together with the interest on them including interest on unpaid installments of interest, and all costs and expenses in connection with an action or proceeding by or on behalf of the holders, are fully met and discharged. The treasurer of state is authorized to include this pledge and agreement of the state, as it refers to holders of bonds or notes of the ~~authority~~ treasurer of state, in a contract with the holders.

Sec. 44. Section 15F.304, subsection 3, paragraph h, subparagraph (4), as enacted by 2000 Iowa Acts, Senate File 2447,[25] section 14, is amended to read as follows:

(4) Conservation of open space and farmland and ~~preserve~~ preservation of critical environmental areas.

Sec. 45. Section 30.2, subsection 2, Code 1999, is amended to read as follows:

2. The commission is composed of twelve members appointed by the governor. One member shall be appointed to represent the department of agriculture and land stewardship,

[22] Chapter 1102 herein
[23] Chapter 1174 herein
[24] Chapter 1174 herein
[25] Chapter 1174 herein

one to represent the department of workforce development, one to represent the department of justice, one to represent the department of natural resources, one to represent the department of public defense, one to represent the Iowa department of public health, one to represent the department of public safety, one to represent the state department of transportation, one to represent the state fire service ~~institute of the Iowa state university of science and technology~~ and emergency response council, and one to represent the office of the governor. Two representatives from private industry shall also be appointed by the governor, subject to confirmation by the senate.

Sec. 46. Section 85.3, subsection 3, unnumbered paragraph 1, as enacted by 2000 Iowa Acts, Senate File 2373,[26] section 1, is amended to read as follows:

Service of process or original notice upon a nonresident employer may be performed as provided in section 617.3 or as provided in the Iowa rules of civil procedure. In addition, service may be made on any corporation, individual, personal representative, partnership, or association that has the necessary minimum contact with this state as provided in rule of civil procedure 56.1 within or without this state or if such service cannot be made, in any manner consistent with due process of law prescribed by the workers' compensation ~~commission~~ commissioner.

Sec. 47. Section 88.6, subsection 9, as enacted by 2000 Iowa Acts, House File 2492,[27] section 6, is amended to read as follows:

9. Reports of inspections and investigations involving the occupational safety and health for fire fighters shall be presented to the state fire service and emergency response council.

Sec. 48. Section 135.110, subsection 1, paragraph a, subparagraph (1), as enacted by 2000 Iowa Acts, House File 2362,[28] section 3, is amended to read as follows:

(1) The causes and manner of domestic abuse deaths, including an analysis of factual information obtained through review of domestic abuse death certificates and domestic abuse death data, including patient records and other pertinent confidential and public information concerning domestic abuse deaths.

Sec. 49. Section 148E.3, subsection 1, as enacted by 2000 Iowa Acts, Senate File 182,[29] section 7, is amended to read as follows:

1. A person otherwise licensed to practice medicine and surgery, osteopathy, osteopathic medicine and surgery, chiropractic, podiatry, or dentistry who is exclusively engaged in the practice of the person's ~~professions~~ profession.

Sec. 50. Section 152.7, unnumbered paragraph 3, as enacted by 2000 Iowa Acts, House File 2105,[30] section 5, is amended to read as follows:

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. A refusal to accept a change in a party state's qualifications for licensure may result in submitting the issue to an arbitration panel or in withdrawal from the compact, ~~in~~ at the discretion of the compact administrator.

Sec. 51. Section 152E.1, article II, sections i, k, l, and n, as enacted by 2000 Iowa Acts, House File 2105,[31] section 8, are amended to read as follows:

i. "Nurse" means a registered nurse or licensed practical or vocational nurse, as those terms are defined by each ~~party's state~~ party state's practice laws.

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[26] Chapter 1007 herein
[27] Chapter 1117 herein
[28] Chapter 1136 herein
[29] Chapter 1053 herein
[30] Chapter 1008 herein
[31] Chapter 1008 herein

k. "Remote state" means a party state, other than the home state, where either of the following applies:

1. Where the patient is located at the time nursing care is provided.

2. In the case of the practice of nursing not involving a patient, in such party state where the recipient of nursing ~~practice~~ care is located.

l. "Remote state action" means either of the following:

1. Any administrative, civil, equitable, or criminal action permitted by a remote state's laws which ~~are~~ is imposed on a nurse by the remote state's licensing board or other authority, including actions against an individual's multistate licensure privilege to practice in the remote state.

2. Cease and desist and other injunctive or equitable orders issued by remote states or the licensing ~~boards'~~ boards of remote states.

n. "State practice laws" means those individual ~~party's~~ party state laws and regulations that govern the practice of nursing, define the scope of nursing practice, and create the methods and grounds for imposing discipline. "State practice laws" does not include the initial qualifications for licensure or requirements necessary to obtain and retain a license, except for qualifications or requirements of the home state.

Sec. 52. Section 152E.1, article III, sections a and e, as enacted by 2000 Iowa Acts, House File 2105,[32] section 8, are amended to read as follows:

a. A license to practice registered nursing issued by a home state to a resident in that state ~~will~~ shall be recognized by each party state as authorizing a multistate licensure privilege to practice as a registered nurse in such party state. A license to practice licensed practical or vocational nursing issued by a home state to a resident in that state ~~will~~ shall be recognized by each party state as ~~authorized~~ authorizing a multistate licensure privilege to practice as a licensed practical or vocational nurse in such party state. In order to obtain or retain a license, an applicant must meet the home state's qualifications for licensure and license renewal as well as all other applicable state laws.

e. Individuals not residing in a party state shall continue to be able to apply for nurse licensure as provided for under the laws of each party state. However, the license granted to these individuals ~~will~~ shall not be recognized as granting the privilege to practice nursing in any other party state unless explicitly agreed to by that party state.

Sec. 53. Section 152E.1, article IV, sections c and d, as enacted by 2000 Iowa Acts, House File 2105,[33] section 8, are amended to read as follows:

c. A nurse who intends to change the nurse's primary state of residence may apply for licensure in the new home state in advance of such change. However, new licenses ~~will~~ shall not be issued by a party state until after a nurse provides evidence of change in the nurse's primary state of residence satisfactory to the new home state's licensing board.

d. 1. If a nurse changes the nurse's primary state of residence by moving between two party states, and obtains a license from the new home state, the license from the former home state is no longer valid.

2. If a nurse changes the nurse's primary state of residence by moving from a nonparty state to a party state, and obtains a license from the new home state, the individual state license issued by the nonparty state is not affected and ~~will~~ shall remain in full force if so provided by the laws of the nonparty state.

3. If a nurse changes the nurse's primary state of residence by moving from a party state to a nonparty state, the license issued by the prior home state converts to an individual state license, valid only in the former home state, without the multistate licensure privilege to practice in other party states.

Sec. 54. Section 152E.1, article VI, section c, as enacted by 2000 Iowa Acts, House File 2105,[34] section 8, is amended to read as follows:

c. Issue cease and desist orders ~~or~~ to limit or revoke a nurse's authority to practice in the ~~nurse's~~ state.

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[32] Chapter 1008 herein

[33] Chapter 1008 herein

[34] Chapter 1008 herein

Sec. 55. Section 152E.1, article VII, sections a and d, as enacted by 2000 Iowa Acts, House File 2105,[35] section 8, are amended to read as follows:

a. All party states shall participate in a cooperative effort to create a coordinated database of all licensed registered nurses and licensed practical or vocational nurses. This system ~~will~~ shall include information on the licensure and disciplinary history of each nurse, as contributed by party states, to assist in the coordination of nurse licensure and enforcement efforts.

d. Notwithstanding any other provision of law, all party states' licensing boards contributing information to the coordinated licensure information system may designate information that ~~may~~ shall not be shared with nonparty states or disclosed to other entities or individuals without the express permission of the contributing state.

Sec. 56. Section 232.2, subsection 4, unnumbered paragraph 1, Code Supplement 1999, as amended by 2000 Iowa Acts, Senate File 2344,[36] section 4, is amended to read as follows:

"Case permanency plan" means the plan, mandated by Pub. L. No. 96-272 and Pub. L. No. 105-89, as codified in 42 U.S.C. § 622(b)(10), 671(a)(16), and 675(1),(5), which is designed to achieve placement in the most appropriate, least restrictive, and most family-like~~, and most appropriate~~ setting available and in close proximity to the parent's home, consistent with the best interests and special needs of the child, and which considers the placement's proximity to the school in which the child is enrolled at the time of placement. The plan shall be developed by the department or agency involved and the child's parent, guardian, or custodian. The plan shall specifically include all of the following:

Sec. 57. Section 232.8, subsection 1, paragraph c, Code 1999, as amended by 2000 Iowa Acts, House File 723,[37] section 1, is amended to read as follows:

c. Violations by a child, age sixteen or older, which subject the child to the provisions of section 124.401, subsection 1, paragraph "e" or "f", or violations of section 723A.2 which involve a violation of chapter 724, or violation of chapter 724 which constitutes a felony, or violations which constitute a forcible felony are excluded from the jurisdiction of the juvenile court and shall be prosecuted as otherwise provided by law unless the court transfers jurisdiction of the child to the juvenile court upon motion and for good cause. A child over whom jurisdiction has not been transferred to the juvenile court, and who is convicted of a violation excluded from the jurisdiction of the juvenile court under this paragraph, shall be sentenced pursuant to section 124.401B, 902.9, or 903.1. Notwithstanding any other provision of the Code to the contrary, the court may accept from a child a plea of guilty, or may instruct the jury on a lesser included offense to the offense excluded from the jurisdiction of the juvenile court under this section, in the same manner as regarding an adult. However, the juvenile court shall have exclusive original jurisdiction in a proceeding concerning an offense of ~~livestock torture as provided in section 717.3 or~~ animal torture as provided in section 717B.3A alleged to have been committed by a child under the age of seventeen.

Sec. 58. Section 232.8, subsection 3, unnumbered paragraph 2, as enacted by 2000 Iowa Acts, House File 723,[38] section 2, is amended to read as follows:

This subsection does not apply in a proceeding concerning an offense of ~~livestock torture as provided in section 717.3 or~~ animal torture as provided in section 717B.3A alleged to have been committed by a child under the age of seventeen.

Sec. 59. Section 249H.2, subsection 1, paragraphs a and b, as enacted by 2000 Iowa Acts, Senate File 2193,[39] section 2, are amended to read as follows:

a. The preservation, improvement, and coordination of the health care infrastructure of Iowa ~~is~~ are critical to the health and safety of Iowans.

b. An increasing number of seniors and persons with disabilities in the state ~~require~~ requires long-term care services provided outside of a medical institution.

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[35] Chapter 1008 herein
[36] Chapter 1067 herein
[37] Chapter 1152 herein
[38] Chapter 1152 herein
[39] Chapter 1004 herein

Sec. 60. Section 249H.3, subsection 1, as enacted by 2000 Iowa Acts, Senate File 2193,[40] section 3, is amended to read as follows:

1. "Affordable" means rates for payment of services which do not exceed the rates established for providers of medical and health services under the medical assistance program with eligibility for an individual equal to the eligibility for medical assistance pursuant to section 249A.3. In relation to services provided by a provider of services under a home and community-based waiver, "affordable" means that the total monthly cost of the home and community-based waiver services provided ~~do~~ does not exceed the cost for that level of care as established by rule by the department of human services, pursuant to chapter 17A, in consultation with the department of elder affairs.

Sec. 61. Section 249H.6, subsection 12, as enacted by 2000 Iowa Acts, Senate File 2193,[41] section 6, is amended to read as follows:

12. The senior living coordinating unit shall review projects that receive grants under this section to ensure that the goal to provide alternatives to nursing facility care is being met and that an adequate number of nursing facility services ~~remain~~ remains to meet the needs of Iowans.

Sec. 62. Section 249H.8, subsection 1, as enacted by 2000 Iowa Acts, Senate File 2193,[42] section 8, is amended to read as follows:

1. A person operating a PACE program shall have a PACE program agreement with the health care financing administration of the United States department of health and human services, shall enter into a contract with the department of human services and shall comply with 42 U.S.C. § 1396(u)(4) and all regulations promulgated pursuant to that section.

Sec. 63. Section 261.19B, Code 1999, as amended by 2000 Iowa Acts, Senate File 2248,[43] section 13, is amended to read as follows:

261.19B OSTEOPATHIC PHYSICIAN RECRUITMENT REVOLVING FUND.

An osteopathic physician recruitment revolving fund is created in the state treasury as a separate fund under the control of the commission. The commission shall deposit payments made by osteopathic physician recruitment recipients and the proceeds from the sale of osteopathic loans into the osteopathic ~~loan~~ physician recruitment revolving fund. Moneys credited to the fund shall be used to supplement moneys appropriated for the osteopathic physician recruitment program, for loan forgiveness to eligible physicians, and to pay for loan or interest repayment defaults by eligible physicians. 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. 64. Section 279.52, unnumbered paragraph 1, Code 1999, as amended by 2000 Iowa Acts, House File 2435,[44] section 1, is amended to read as follows:

The board of directors may pay the actual cost of an asbestos project from any funds in the general fund of the district, funds received from the physical plant and equipment levy, or moneys obtained through a federal asbestos loan program, to be repaid from any of the funds specified in this ~~subsection~~ section over a three-year period.

Sec. 65. Section 306.11, Code 1999, as amended by 2000 Iowa Acts, Senate File 2194,[45] section 1, is amended to read as follows:

306.11 HEARING — PLACE — DATE.

In proceeding to the vacation and closing of a road, part thereof, or railroad crossing, the agency in control of the road, or road system, shall fix a date for a hearing on the vacation and closing in the county where the road, or part thereof, or crossing, is located, and if located in more than one county, then in a county in which any part of the road or crossing

[40] Chapter 1004 herein
[41] Chapter 1004 herein
[42] Chapter 1004 herein
[43] Chapter 1095 herein
[44] Chapter 1072 herein
[45] Chapter 1074 herein

is located. If the road to be vacated or changed is a secondary road located in more than one county, the boards of supervisors of the counties, acting jointly, shall fix a date for a hearing on the vacation or change in either or any of the counties where the road, or part thereof, is located. If the proposed vacation is of part of a road right-of-way held by easement and will not change the existing traveled portion of the road or deny access to the road by adjoining landowners, a hearing is not required.

Sec. 66. Section 322.3, subsection 14, paragraph b, unnumbered paragraph 1, as enacted by 2000 Iowa Acts, House File 2106,[46] section 1, is amended to read as follows:

A manufacturer or importer from temporarily owning an interest in a motor vehicle dealership for the purpose of enhancing opportunities for persons who lack the financial resources to purchase the motor vehicle dealership without such assistance. A manufacturer or importer may temporarily own an interest in a motor vehicle dealership pursuant to this paragraph only if the manufacturer or importer enters into a contract with a person pursuant to ~~whom~~ which all of the following apply:

Sec. 67. Section 331.506, subsection 1, paragraphs b, c, and d, as enacted by 2000 Iowa Acts, Senate File 2047,[47] section 1, if 2000 Iowa Acts, House File 2205[48] is enacted, are amended to read as follows:

b. The auditor shall not issue a warrant to a drawee until the auditor has transmitted to the treasurer a list of the warrants to be issued. The list shall include the date, amount, and number of the warrant, name of the person to whom the warrant is issued, and the purpose for which the warrant is issued. The treasurer shall acknowledge receipt of the list by affixing the treasurer's signature at the bottom of the list and immediately returning the list to the auditor. The requirement that the treasurer sign to acknowledge receipt of the list is satisfied by use of a digital signature or other secure electronic signature if the county auditor and treasurer have complied with the applicable provisions of chapter ~~554C~~ 554D.

c. The warrant list signed by the treasurer shall be preserved by the auditor for at least two years. The requirement that the list be preserved is satisfied by preservation of the list in electronic form if the requirements of section ~~554C.205~~ 554D.113 are met.

d. The requirement that the county auditor sign a warrant is satisfied by use of a digital signature or other secure electronic signature if the county auditor has complied with the applicable provisions of chapter ~~554C~~ 554D.

Sec. 68. Section 331.554, subsection 4, Code 1999, as amended by 2000 Iowa Acts, Senate File 2047,[49] section 3, if 2000 Iowa Acts, House File 2205[50] is enacted, is amended to read as follows:

4. The treasurer shall return the paid warrants to the auditor. The original warrant shall be preserved for at least two years. The requirement that the original warrant be preserved is satisfied by preservation of the warrant in electronic form if the requirements of section ~~554C.205~~ 554D.113 are met. The treasurer shall make monthly reports to show for each warrant the number, date, drawee's name, when paid, to whom paid, original amount, and interest.

Sec. 69. Section 411.22, subsection 1, unnumbered paragraph 1, as enacted by 2000 Iowa Acts, Senate File 2411,[51] section 109, is amended to read as follows:

If a member receives an injury or dies for which benefits are payable under section 411.6, subsection 3, 5, 8, or 9, or section 411.15, and if the injury or death is caused under circumstances creating a legal liability for damages against a third party other than the retirement system, the retirement system is subrogated to the rights of the member or the member's ~~legal representative~~ beneficiary entitled to receive a death benefit and may maintain an action for damages against the third party for lost earnings and lost earnings capacity. If

[46] Chapter 1003 herein
[47] Chapter 1084 herein
[48] Chapter 1189 herein
[49] Chapter 1084 herein
[50] Chapter 1189 herein
[51] Chapter 1077 herein

the retirement system recovers damages in the action, the court shall enter judgment for distribution of the recovery as follows:

Sec. 70. Section 453A.3, subsection 1, Code 1999, is amended to read as follows:
1. A person who violates section 453A.2, subsection 1, ~~or section 453A.39~~ is guilty of a simple misdemeanor.

Sec. 71. Section 453A.22, subsection 2, unnumbered paragraph 1, Code 1999, is amended to read as follows:
If a retailer or employee of a retailer has violated section 453A.2~~,~~ or section 453A.36, subsection 6, ~~or 453A.39,~~ the department or local authority, in addition to the other penalties fixed for such violations in this section, shall assess a penalty upon the same hearing and notice as prescribed in subsection 1 as follows:

Sec. 72. Section 455B.171, subsection 31B, as enacted by 2000 Iowa Acts, Senate File 2371,[52] section 9, is amended to read as follows:
31B. "Section 305(b) ~~list~~ report" means any report ~~or list~~ required under 33 U.S.C. § 1315(b).

Sec. 73. Section 455B.193, unnumbered paragraph 2, as enacted by 2000 Iowa Acts, Senate File 2371,[53] section 10, is amended to read as follows:
The department of natural resources shall develop a methodology for water quality assessments as used in the section 303(d) ~~listings~~ lists and assess the validity of the data.

Sec. 74. Section 462A.14, subsection 12, paragraph d, as enacted by 2000 Iowa Acts, House File 2331,[54] section 2, if 2000 Iowa Acts, House File 2511[55] is enacted, is amended to read as follows:
d. The court may prescribe the length of time for the evaluation and treatment or the court may request that the community college or licensed substance abuse program conducting the course for drinking drivers which the defendant is ordered to attend or the treatment program to which the defendant is committed immediately report to the court when the defendant has received maximum benefit from the course for drinking drivers or treatment program or has recovered from the defendant's addiction, dependency, or tendency to chronically abuse alcohol or drugs.

Sec. 75. Section 466.4, subsections 2 and 5, as enacted by 2000 Iowa Acts, Senate File 2371,[56] section 5, are amended to read as follows:
2. The department of agriculture and land stewardship shall request the assistance of and consult with the United States department of ~~agriculture~~ agriculture's natural resources conservation service and farm service agency to implement the conservation reserve enhancement program. The department shall also consult with county boards of supervisors, county conservation boards, drainage district representatives, department of natural resources, and soil and water conservation districts affected by the implementation of the conservation reserve enhancement program. The department shall also collaborate with other public agencies and private organizations to develop wetland habitat and related projects to improve water quality.
5. The five-year goal of the conservation reserve ~~enhanced~~ enhancement program is the establishment of thirty-two thousand five hundred acres of wetlands.

Sec. 76. Section 481A.125, subsection 1, paragraphs a, b, and c, as enacted by 2000 Iowa Acts, Senate File 2300,[57] section 1, are amended to read as follows:
a. To intentionally place oneself in a location where a human presence may affect the behavior of a fur-bearing ~~game~~ animal, game, bird, or fish or the feasibility of killing or

[52] Chapter 1068 herein
[53] Chapter 1068 herein
[54] Chapter 1099 herein
[55] Chapter 1138 herein
[56] Chapter 1068 herein
[57] Chapter 1076 herein

taking a fur-bearing ~~game~~ animal, game, bird, or fish with the intent of obstructing or harassing another person who is lawfully hunting, fishing, or fur harvesting.

b. To intentionally create a visual, aural, olfactory, or physical stimulus for the purpose of affecting the behavior of a fur-bearing ~~game~~ animal, game, bird, or fish with the intent of obstructing or harassing another person who is lawfully hunting, fishing, or fur harvesting.

c. To intentionally affect the condition or alter the placement of personal property used for the purpose of killing or taking a fur-bearing ~~game~~ animal, game, bird, or fish with the intent of obstructing or harassing another person who is lawfully hunting, fishing, or fur harvesting.

Sec. 77. Section 481A.125, subsection 5, as enacted by 2000 Iowa Acts, Senate File 2300,[58] section 1, is amended to read as follows:

5. This ~~subsection~~ section shall not prohibit a landowner, tenant, or an employee of a landowner or tenant from performing normal agricultural operations or a law enforcement officer from performing official duties.

**Sec. 78. Section 483A.2, as enacted by 2000 Iowa Acts, House File 2486, section 6, is amended to read as follows:*

483A.2 DUAL RESIDENCY.

*A resident license shall be limited to persons who do not claim any resident privileges, except as defined in section 483A.1A, subsection 4, paragraphs "b"~~,~~ and "c", ~~and "d",~~ in another state or country. A person shall not purchase or apply for any resident license or permit if that person has claimed residency in any other state or country.**

Sec. 79. Section 521F.3, subsection 2, paragraph a, unnumbered paragraph 1, as enacted by 2000 Iowa Acts, House File 2316,[59] section 3, is amended to read as follows:

A health organization's risk-based capital shall be determined pursuant to the formula set forth in the risk-based capital instructions. The formula shall take into account all of the following, and may ~~by~~ be adjusted, as deemed appropriate by the commissioner, for the covariance between the following:

Sec. 80. Section 521F.4, subsection 3, as enacted by 2000 Iowa Acts, House File 2316,[60] section 4, is amended to read as follows:

3. The risk-based capital plan shall be filed within forty-five days of the company-action-level event, or, if the health organization requests a hearing pursuant to section 521F.8 for the purpose of challenging the adjusted risk-based capital report, within forty-five days after notification to the ~~insurer~~ health organization that the commissioner, after hearing, has rejected the ~~insurer's~~ health organization's challenge.

Sec. 81. Section 521F.8, subsection 2, paragraph b, subparagraph (1), as enacted by 2000 Iowa Acts, House File 2316,[61] section 8, is amended to read as follows:

(1) ~~The~~ That the health organization's risk-based capital plan or revised risk-based capital plan is unsatisfactory.

Sec. 82. Section 523C.19, subsections 2 and 3, as enacted by 2000 Iowa Acts, House File 2317,[62] section 30, are amended to read as follows:

2. If a hearing is not timely requested, the summary order becomes final by operation of law. The order shall remain effective from the date of issuance until the date the order becomes final by operation of law or is overturned by a presiding officer or court following a request for hearing. A person who has been issued a summary order under this section may contest it by filing a request for a contested case proceeding as provided in chapter 17A and in accordance with rules adopted by the commissioner. However, the person shall have

[58] Chapter 1076 herein
* Item veto; see message at end of the Act
[59] Chapter 1050 herein
[60] Chapter 1050 herein
[61] Chapter 1050 herein
[62] Chapter 1147 herein

at least thirty days from the date that the order is issued in order to file the request. Section 17A.18A is inapplicable to a summary order issued under this ~~subsection~~ section.

3. A person violating a summary order issued under this ~~subsection~~ section shall be deemed in contempt of that order. The commissioner may petition the district court to enforce the order as certified by the commissioner. The district court shall adjudge the person in contempt of the order if the court finds after hearing that the person is not in compliance with the order. The court shall assess a civil penalty against the person in an amount not less than three thousand dollars but not greater than ten thousand dollars per violation, and may issue further orders as it deems appropriate.

Sec. 83. Section 600.13, subsection 1, paragraph c, as amended by 2000 Iowa Acts, Senate File 421,[63] section 17, is amended to read as follows:

c. Dismiss the adoption petition if the requirements of this ~~Act~~ chapter have not been met or if dismissal of the adoption petition is in the best interest of the person whose adoption has been petitioned. Upon dismissal, the juvenile court or court shall determine who is to be guardian or custodian of a minor child, including the adoption petitioner if it is in the best interest of the minor person whose adoption has been petitioned.

Sec. 84. Section 692B.2, article XI(a)(1)(B), as enacted by 2000 Iowa Acts, Senate File 2145,[64] section 2, is amended to read as follows:

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

Sec. 85. Section 714.16, subsection 2, paragraph n, subparagraph (3), subparagraph subdivision (a), as enacted by 2000 Iowa Acts, House File 2148,[65] section 1, is amended to read as follows:

(a) "Local telephone directory" means a telephone classified advertising directory or the business section of a telephone directory that is distributed free of charge to some or all telephone subscribers in a local area ~~directory~~.

Sec. 86. 2000 Iowa Acts, House File 683,[66] section 4, is amended to read as follows:

SEC. 4. EFFECTIVE DATE. This Act takes effect July 1, 2001, except that section 598.7A, subsection 5, as enacted in section 2 of this Act and section 3 of this Act ~~takes~~ take effect upon enactment.

Sec. 87. 2000 Iowa Acts, House File 2433,[67] section 4, subsections 1 and 2, are amended to read as follows:

1. A comparison of the data elements collected by the basic educational data ~~elements~~ survey for K-12 schools to the data elements being collected by the management information system for community colleges to the chairpersons and ranking members of the joint appropriations subcommittee on education ~~appropriations~~ by January 15, 2001.

2. A report on the progress toward implementation of the management information system to the legislative fiscal bureau and department of management by ~~June 30~~ July 1, 2000.

Sec. 88. 2000 Iowa Acts, Senate File 2193, section 23,[68] is amended to read as follows:

SEC. 23. RETROACTIVE APPLICABILITY. The section in this Act that creates section ~~249H.6~~ 249H.4 as it relates to receipt of federal funding, is retroactively applicable to October 1, 1999.

Sec. 89. 2000 Iowa Acts, Senate File 2248,[69] section 20, is amended to read as follows:

SEC. 20. TRANSFER OF OSTEOPATHIC ~~FORGIVABLE~~ LOAN REVOLVING FUND MONEYS BY TREASURER. On the effective date of this Act, the treasurer of state shall

[63] Chapter 1145 herein
[64] Chapter 1065 herein
[65] Chapter 1079 herein
[66] Chapter 1159 herein
[67] Chapter 1167 herein
[68] Chapter 1004 herein
[69] Chapter 1095 herein

transfer any balance in the osteopathic ~~forgivable~~ loan ~~program~~ revolving fund to the osteopathic physician recruitment revolving fund established pursuant to section 13 of this Act.

Sec. 90. 2000 Iowa Acts, Senate File 2254,[70] section 4, is amended to read as follows:
SEC. 4. RETROACTIVE APPLICABILITY. Section 252I.4, subsection ~~3~~ 4, as amended in this Act, is retroactively applicable to January 1, 2000.

Sec. 91. 2000 Iowa Acts, Senate File 2344,[71] section 16, is amended by striking the section and inserting in lieu thereof the following:
SEC. 16. Section 239B.24, subsection 1, unnumbered paragraph 1, Code Supplement 1999, is amended to read as follows:
The following persons are deemed to be eligible for benefits under the state child care assistance program administered by the department in accordance with section 237A.13, notwithstanding the program's eligibility requirements or any waiting list:

Sec. 92. APPROPRIATIONS FOR THE DRUG POLICY COORDINATOR. References in 2000 Iowa Acts, House File 2533,[72] sections 5 through 8 and 33, to the drug enforcement and abuse prevention coordinator are deemed to be references to the drug policy coordinator if 2000 Iowa Acts, House File 2153[73] is enacted.

Sec. 93. CODE EDITOR DIRECTIVE. The Iowa Code editor shall transfer section 325A.16, as amended by 2000 Iowa Acts, Senate File 2147,[74] section 36, to an appropriate place in subchapter 1 of chapter 325A and change internal references as necessary.

Sec. 94. AMENDMENTS TO DISAPPROVED BILLS VOID. If a provision of a bill, which is amended in this division of this Act, does not become law due to the governor's disapproval of the provision, the amendment to that disapproved provision in this division of this Act is void.

Sec. 95. EFFECTIVE AND RETROACTIVE APPLICABILITY PROVISIONS.
1. The amendments in this division of this Act to sections 453A.3 and 453A.22, being deemed of immediate importance, take effect upon enactment.
2. The amendment in this division of this Act to 2000 Iowa Acts, Senate File 2193,[75] section 23, being deemed of immediate importance, takes effect upon enactment, and applies retroactively to October 1, 1999.
3. The amendment in this division of this Act to 2000 Iowa Acts, Senate File 2254,[76] section 4, being deemed of immediate importance, takes effect upon enactment, and applies retroactively to January 1, 2000.

DIVISION VIII
VOLUNTEER EMERGENCY SERVICES PROVIDERS

Sec. 96. Section 80.9, subsection 2, Code Supplement 1999, is amended by adding the following new paragraph:
NEW PARAGRAPH. i. To administer section 100B.11 relating to volunteer emergency services provider death benefits.

Sec. 97. NEW SECTION. 100B.11 VOLUNTEER EMERGENCY SERVICES PROVIDER DEATH BENEFIT — ELIGIBILITY.
1. There is appropriated annually from the general fund of the state to the department of revenue and finance an amount sufficient to pay death benefit claims under this section. The director of revenue and finance shall issue warrants for payment of death benefit claims approved for payment by the department of public safety under subsection 2.

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[70] Chapter 1096 herein
[71] Chapter 1067 herein
[72] Chapter 1220 herein
[73] Chapter 1126 herein
[74] Chapter 1016 herein
[75] Chapter 1004 herein
[76] Chapter 1096 herein

2. a. If the department of public safety determines, upon the receipt of evidence and proof from the fire chief or supervising officer, that the death of a volunteer emergency services provider was the direct and proximate result of a traumatic personal injury incurred in the line of duty as a volunteer, a line of duty death benefit in an amount of one hundred thousand dollars shall be paid in a lump sum to the volunteer emergency services provider's beneficiary. A line of duty death benefit payable under this subsection shall be in addition to any other death benefit payable to the volunteer emergency services provider.

b. A line of duty death benefit shall not be payable under this subsection if any of the following applies:

(1) The death resulted from stress, strain, occupational illness, or a chronic, progressive, or congenital illness, including, but not limited to, a disease of the heart, lungs, or respiratory system, unless a traumatic personal injury was a substantial contributing factor to the volunteer emergency services provider's death.

(2) The death was caused by the intentional misconduct of the volunteer emergency services provider or by such provider's intent to cause the provider's own death.

(3) The volunteer emergency services provider was voluntarily intoxicated at the time of death.

(4) The volunteer emergency services provider was performing the provider's duties in a grossly negligent manner at the time of death.

(5) A beneficiary who would otherwise be entitled to a benefit under this subsection was, through the beneficiary's actions, a substantial contributing factor to the volunteer emergency services provider's death.

3. For purposes of this section, "volunteer emergency services provider" means a volunteer fire fighter as defined in section 85.61 or a volunteer emergency medical care provider or volunteer emergency rescue technician defined in section 147A.1 who is not covered as a volunteer emergency services provider under chapter 97A, 97B, or 411.

Sec. 98. REPEAL — LEGISLATIVE INTENT.

1. This division of this Act is repealed July 1, 2002.

2. It is the intent of the general assembly that the repeal of this division of this Act on July 1, 2002, will allow consideration of recommendations relating to this division of this Act to be received by the general assembly from the department of management based on the department's study of the possible implementation of a system to provide retirement benefits and death and survivor benefits to volunteer fire fighters and volunteer emergency medical service personnel.

DIVISION IX
FINANCIAL INSTITUTIONS — SATELLITE TERMINALS

Sec. 99. Section 527.2, subsections 10, 14, and 15, Code 1999, are amended to read as follows:

10. "Limited-function terminal" means an on-line point-of-sale terminal, ~~or~~ an off-line point-of-sale terminal ~~which satisfies the requirements of section 527.4, subsection 3, paragraph "d"~~, or a multiple use terminal, which is not operated in a manner to accept an electronic personal identifier. Except as otherwise provided, a limited-function terminal shall not be subject to the requirements imposed upon other satellite terminals pursuant to sections 527.4 and 527.5, subsections 1, 2, 3, 7, and 8.

14. "Off-line point-of-sale terminal" means a satellite terminal ~~that satisfies the requirements of section 527.4, subsection 3, paragraph "d" and is~~ at any location in this state off the premises of the financial institution, other than an on-line point-of-sale terminal, that satisfies all of the following:

a. The satellite terminal is not operated to accept deposits or to dispense scrip or other negotiable instruments.

b. The satellite terminal is not operated to dispense cash except when operated by a person other than the customer initiating the transaction.

c. The satellite terminal is utilized for the purpose of making payment to the provider of goods or services purchased or provided at the location of the satellite terminal.

15. "On-line point-of-sale terminal" means a satellite terminal ~~that satisfies the requirements of section 527.4, subsection 3, paragraph "d" and is~~ at any location in this state off the premises of the financial institution operated on an on-line real time basis, that satisfies all of the following:

a. The satellite terminal is not operated to accept deposits or to dispense scrip or other negotiable instruments.

b. The satellite terminal is not operated to dispense cash except when operated by a person other than the customer initiating the transaction.

c. The satellite terminal is utilized for the purpose of making payment to the provider of goods or services purchased or provided at the location of the satellite terminal.

Sec. 100. Section 527.4, subsection 1, Code 1999, is amended by striking the subsection and inserting in lieu thereof the following:

1. A satellite terminal shall not be established within this state except by a financial institution.

Sec. 101. Section 527.4, subsection 2, Code 1999, is amended by striking the subsection.

Sec. 102. Section 527.4, subsection 3, Code 1999, is amended to read as follows:

~~3. A financial institution whose licensed or principal place of business is located within this state may establish any number of satellite terminals in any of the following locations:~~

~~a. Within the boundaries of a municipal corporation if the principal place of business or an office of the financial institution is also located within the boundaries of the municipal corporation.~~

~~b. Within the boundaries of an urban complex composed of two or more Iowa municipal corporations each of which is contiguous to or corners upon at least one of the other municipal corporations within the urban complex if the principal place of business or an office of the financial institution is also located in the urban complex.~~

~~c. Within the Iowa county in which the financial institution has its principal place of business or an office.~~

~~d. At any location in this state off the premises of the financial institution if all of the following apply:~~

~~(1) The satellite terminal is not operated to accept deposits or to dispense scrip or other negotiable instruments.~~

~~(2) The satellite terminal is not operated to dispense cash except when operated by a person other than the customer initiating the transaction.~~

~~(3) The satellite terminal is utilized for the purpose of making payment to the provider of goods or services purchased or provided at the location of the satellite terminal.~~

3. A financial institution ~~shall not~~ may establish a satellite terminal at any ~~other~~ location ~~except pursuant to an agreement with a financial institution which is authorized by this subsection to establish a satellite terminal at that location and which will utilize the satellite terminal at that location~~ within this state. This subsection does not amend, modify, or supersede any provision of chapter 524 regulating the number or locations of bank offices of a state or national bank, or authorize the establishment by a financial institution of any offices or other facilities except satellite terminals at locations permitted by this subsection.

Sec. 103. Section 527.4, subsection 4, Code 1999, is amended to read as follows:

4. A financial institution whose licensed or principal place of business is not located in this state may establish, control, maintain, or operate any number of satellite terminals at ~~the locations identified in subsection 3, paragraphs "a", "b", "c", and "d"~~ any location within this state if ~~both of the following apply:~~

~~a. The other state provides for the establishment, control, maintenance, or operation of satellite terminals by a financial institution, whose licensed or principal place of business is located in this state, on a reciprocal basis.~~

~~b. All~~ all satellite terminals, wherever located, that are owned, controlled, maintained, or operated by the financial institution are available for use on a nondiscriminatory basis by any other financial institution which engages in electronic transactions in this state and by all customers who have minimum contact with this state and who have been designated by a financial institution using the satellite terminal and who have been provided with an access device, approved by the administrator, by which to engage in electronic transactions by means of the satellite terminal.

Sec. 104. Section 527.5, subsection 5, Code 1999, is amended to read as follows:

5. ~~A satellite terminal in this state shall bear a sign or label identifying each type of financial institution utilizing the terminal. A satellite terminal location in this state shall not be used to advertise individual financial institutions or a group of financial institutions. However, a~~ A satellite terminal shall bear a sign or label no larger than three inches by two inches identifying the name, address, and telephone number of the owner of the satellite terminal. The administrator may authorize methods of identification the administrator deems necessary to enable the general public to determine the accessibility of a satellite terminal.

Sec. 105. Section 527.5, subsection 11, paragraph a, Code 1999, is amended to read as follows:

a. If at any time, a limited-function terminal at a location ~~as defined in section 527.4, subsection 3, paragraph "d",~~ in this state off the premises of the financial institution is replaced by a device constituting either an on-line or an off-line point-of-sale terminal which may be utilized to initiate transactions which affect customer asset accounts through the use of an electronic personal identifier, or is upgraded, altered, or modified to be operated in a manner which allows the use of an electronic personal identifier to initiate transactions which affect customer asset accounts, or an on-line or an off-line point-of-sale terminal which may be utilized to initiate transactions which affect customer asset accounts through the use of an electronic personal identifier is newly established at a location ~~defined in section 527.4, subsection 3, paragraph "d"~~ in this state off the premises of the financial institution, then such upgraded, altered, or modified limited-function terminal or replacement point-of-sale terminal or such newly established point-of-sale terminal is deemed to be a full-function point-of-sale terminal for purposes of this subsection and all requirements of a satellite terminal in this chapter apply to the full-function point-of-sale terminal with regard to all transactions affecting customer asset accounts which are initiated through the use of an electronic personal identifier, except for section 527.4, ~~subsections 1, 2, and~~ subsection 4, ~~section 527.4, subsection 3, paragraphs "a", "b", and "c",~~ and subsections 1, 3, and 7 of this section.

Sec. 106. Section 527.5, subsection 12, Code 1999, is amended to read as follows:

12. Effective July 1, 1994, any transaction engaged in with a retailer through a satellite terminal at a location ~~described in section 527.4, subsection 3, paragraph "d",~~ in this state off the premises of the financial institution by means of an access device which results in a debit to a customer asset account shall be cleared and paid at par during the settlement of such transaction. Notwithstanding the terms of any contractual agreement between a retailer or financial institution and a national card association as described in subsection 11, an electronic funds transfer processing facility of a national card association, a central routing unit approved pursuant to this chapter, or a data processing center, the processing fees and charges for such transactions to the retailer shall be as contractually agreed upon between the retailer and the financial institution which establishes, owns, operates, controls, or processes transactions initiated at the satellite terminal. All accounting documents reflecting such fees and charges imposed on the retailer shall separately identify transactions which have resulted in a debit to a customer asset account and the charges imposed. The provisions of this subsection shall apply to all satellite terminals, including limited-function terminals, full-function point-of-sale terminals as identified in subsection 11, paragraph "a", and multiple use terminals.

Sec. 107. EFFECTIVE DATE. This division of this Act, being deemed of immediate importance, takes effect upon enactment.

DIVISION X
OTHER APPROPRIATIONS

Sec. 108. DEPARTMENT FOR THE BLIND. There is appropriated from the general fund of the state to the department for the blind for the fiscal year beginning July 1, 2000, and ending June 30, 2001, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. For establishment of statewide access to the newsline for the blind furnished by the national federation of the blind:

..... $ 15,000

2. For use in enabling blind individuals to independently access newspapers through the operations of the Iowa radio reading information service:

..... $ 15,000

Sec. 109. 2000 Iowa Acts, Senate File 2435,[77] section 7, unnumbered paragraph 2, is amended to read as follows:

For child support recovery, including salaries, support, maintenance, and miscellaneous purposes and for not more than the following full-time equivalent positions:

..... $ ~~6,471,841~~
6,671,841
..... FTEs 272.40

Sec. 110. 2000 Iowa Acts, House File 2552,[78] section 4, subsection 1, paragraph a, is amended to read as follows:

a. For the operation of the Fort Madison correctional facility, including salaries, support, maintenance, employment of correctional officers, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ ~~30,153,729~~
29,865,654
..... FTEs ~~533.50~~
528.58

Sec. 111. 2000 Iowa Acts, House File 2552,[79] section 4, subsection 1, paragraph c, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. In addition to the funds appropriated in this paragraph, $50,000 is appropriated from the general fund of the state to the department of corrections for the fiscal year beginning July 1, 2000, and ending June 30, 2001, for ongoing technology needs at the Oakdale correctional facility.

Sec. 112. 2000 Iowa Acts, House File 2552,[80] section 4, subsection 1, paragraph h, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. In addition to the funds appropriated in this paragraph, $62,572 is appropriated from the general fund of the state to the department of corrections for the fiscal year beginning July 1, 2000, and ending June 30, 2001, for ongoing technology needs at the Mitchellville correctional facility.

Sec. 113. 2000 Iowa Acts, House File 2552,[81] section 7, subsection 1, paragraph a, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. In addition to the funds appropriated in this paragraph, $22,571 is appropriated from the general fund of the state to the department of correc-

[77] Chapter 1228 herein
[78] Chapter 1229 herein
[79] Chapter 1229 herein
[80] Chapter 1229 herein
[81] Chapter 1229 herein

tions for the fiscal year beginning July 1, 2000, and ending June 30, 2001, for ongoing technology needs of the first judicial district department of correctional services.

Sec. 114. 2000 Iowa Acts, House File 2552,[82] section 7, subsection 1, paragraph b, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. In addition to the funds appropriated in this paragraph, $1,680 is appropriated from the general fund of the state to the department of corrections for the fiscal year beginning July 1, 2000, and ending June 30, 2001, for ongoing technology needs of the second judicial district department of correctional services.

Sec. 115. 2000 Iowa Acts, House File 2552,[83] section 7, subsection 1, paragraph e, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. In addition to the funds appropriated in this paragraph, $70,095 is appropriated from the general fund of the state to the department of corrections for the fiscal year beginning July 1, 2000, and ending June 30, 2001, for ongoing technology needs of the fifth judicial district department of correctional services.

Sec. 116. 2000 Iowa Acts, House File 2552,[84] section 7, subsection 1, paragraph f, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. In addition to the funds appropriated in this paragraph, $60,000 is appropriated from the general fund of the state to the department of corrections for the fiscal year beginning July 1, 2000, and ending June 30, 2001, for ongoing technology needs of the sixth judicial district department of correctional services.

Sec. 117. 2000 Iowa Acts, House File 2552,[85] section 7, subsection 1, paragraph g, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. In addition to the funds appropriated in this paragraph, $11,740 is appropriated from the general fund of the state to the department of corrections for the fiscal year beginning July 1, 2000, and ending June 30, 2001, for ongoing technology needs of the seventh judicial district department of correctional services.

Approved May 23, 2000, with exceptions noted.

THOMAS J. VILSACK, *Governor*

Dear Mr. Secretary:

I hereby transmit Senate File 2452, an Act relating to public expenditure and regulatory matters, making appropriations, and including effective date and retroactive applicability provisions.

Senate File 2452 is the annual standings appropriation bill and provides for many technical changes and corrections in numerous bills passed during this section. The bill provides for a two percent increase in fiscal year 2002 for county mental health/mental retardation/developmental disabilities appropriation. The bill also provides for a new program to pay death benefit claims for volunteer fire fighters, emergency medical care providers, and emergency rescue technicians who are killed in the line of duty.

I am unable to approve the item designated as Section 19 in its entirety. This section establishes a Microsoft Settlement Fund and requires that the state's portion of any moneys paid to the state by Microsoft in settlement of its federal antitrust lawsuit be deposited into this fund and used only as appropriated by the general assembly. In previous years, includ-

[82] Chapter 1229 herein
[83] Chapter 1229 herein
[84] Chapter 1229 herein
[85] Chapter 1229 herein

ing the current year, the Legislature has authorized the Department, in the Department of Justice appropriation bill, to retain damages, costs and attorney fees awarded to the state in antitrust cases. These moneys are held in a non-reverting fund that is to be used exclusively for the enforcement of the Iowa competition law. While the state's antitrust litigation against Microsoft does not include a request for monetary damages, the Department of Justice has incurred significant costs in the case, and the Department will seek to recover these costs and attorneys fees for this time from Microsoft. These costs should be placed in the antitrust fund like all other antitrust cases — not in a separate fund.

I am unable to approve the item designated as Section 30 in its entirety. This section strikes in Senate File 2453, the opportunity for the Department of General Services to include a recommendation of long-term leases from the study for additional facilities for state agencies. This elimination unnecessarily limits the options available for the Department to include in the study.

I am unable to approve the item designated as Section 78 in its entirety. This section makes a technical amendment to House File 2486 that deals with residency requirements to obtain fishing and hunting licenses. However, House File 2008, which was approved by the Legislature, corrected the deficiency. Therefore, the amendment in Senate File 2452, Section 78 is inaccurate and should be removed.

For the above reasons, I hereby respectfully approve Senate File 2452 with the exceptions noted above.

Sincerely,
THOMAS J. VILSACK, *Governor*

CHAPTER 1233

WORLD FOOD PRIZE AWARDS CEREMONY

H.J.R. 2014

A JOINT RESOLUTION authorizing the temporary use and consumption of wine in the state capitol in conjunction with the awards ceremony of the World Food Prize Foundation.

WHEREAS, the State of Iowa has the honor of being the home of the World Food Prize Foundation which annually presents an international award recognizing outstanding individual achievement in improving the quality, quantity, or availability of food in the world; and

WHEREAS, Iowa's unique State Capitol is an optimal location for this awards ceremony of the World Food Prize Foundation; and

WHEREAS, wine is customarily served as an accompaniment to the food and entertainment provided at this type of awards ceremony; and

WHEREAS, under 401 IAC 1.6(6), which prohibits the consumption of alcoholic beverages on the capitol complex, it is not possible to serve wine at this type of awards ceremony in the state capitol; NOW THEREFORE,

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

Section 1. Notwithstanding 401 IAC 1.6(6) 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 12, 2000, hosted and organized in whole or in part by the World Food Prize Foundation if the person providing the food and wine at the awards ceremony possesses an appropriate valid liquor control license. For the purpose of this section and section 123.95, the State Capitol is a private place.

Approved May 3, 2000

CHAPTER 1234

NULLIFICATION OF ADMINISTRATIVE RULE —
PROPERTY TAX CLASSIFICATION OF CONDOMINIUMS

S.J.R. 2005

† **A JOINT RESOLUTION** nullifying amendments to administrative rules of the department of revenue and finance concerning the classification of condominiums for property tax purposes and providing an effective date.

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

Section 1. The amendments to 701 Iowa administrative code, rule 71.1, subrules 4 and 5, as appearing in ARC 8725A, as published in the Iowa administrative bulletin, volume XXI, number 19, dated March 10, 1999, pp. 1858 and 1859, are nullified.

Sec. 2. This joint resolution, being deemed of immediate importance, takes effect upon enactment.

Approved May 9, 2000

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

ANALYSIS OF TABLES

2000 REGULAR SESSION

Conversion Tables of Senate and House Files and Joint Resolutions to Chapters of the Acts of the General Assembly

1999 Code and Code Supplement Chapters and Sections Amended or Repealed, 2000 Regular Session

New Code Chapters and Sections Assigned by the Seventy-Eighth General Assembly, 2000 Regular Session

Session Laws Amended or Repealed in Acts of the Seventy-Eighth General Assembly, 2000 Regular Session

Session Laws Referred to in Acts of the Seventy-Eighth General Assembly, 2000 Regular Session

Iowa Codes and Code Supplements Referred to in Acts of the Seventy-Eighth General Assembly, 2000 Regular Session

Iowa Administrative Code Referred to in Acts of the Seventy-Eighth General Assembly, 2000 Regular Session

Iowa Administrative Code Rules Nullified in Acts of the Seventy-Eighth General Assembly, 2000 Regular Session

Acts of Congress and United States Code Referred to

Code of Federal Regulations Referred to

Iowa Court Rules 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

2000 REGULAR SESSION

SENATE FILES

File No.	Acts Chapter	File No.	Acts Chapter	File No.	Acts Chapter
174	1029	2194	1074	2342	1087
182	1053	2200	1046	2344	1067
228	1153	2212	1032	2348	1111
292	1199	2213	1139	2349	1048
324	1093	2214	1210	2360	1112
419	1183	2215	1033	2366	1105
421	1145	2221	1056	2368	1088
428	1083	2238	1075	2369	1123
441	1200	2241	1201	2371	1068
466	1184	2243	1202	2372	1021
2007	1063	2245	1203	2373	1007
2010	1172	2246	1204	2388	1022
2015	1030	2248	1095	2390	1155
2031	1044	2249	1109	2395	1141
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2047	1084	2253	1085	2411	1077
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[5] If enacted by 2000 Iowa Acts, House File 2579 probably intended
[6] If enacted by 2000 Iowa Acts, House File 2579 probably intended

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[8] Not enacted

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