

## DEPARTMENT OF ADMINISTRATIVE SERVICES

Continuation of effectiveness of rules, regulations, forms, orders, and directives promulgated under prior law, and validity of licenses and permits issued under prior law, by state agencies affected by 2003 Acts, ch 145; schedule for updating Iowa administrative code to conform to restructuring of state government; 2003 Acts, ch 145, §287

For transition provisions relating to the transfer of merit system personnel; the transfer of preexisting funds; applicability of causes of action and statutes of limitation to successor agencies; and the replacement of signs, logos, stationery, insignia, uniforms, and related items, see 2003 Acts, ch 145, §288

For provisions authorizing the department of administrative services to determine how designated state services are delivered to state agencies; requiring the department to conduct a managed competition for delivery of services pilot project and submit its report by July 1, 2005; requiring the department to submit a request for proposals for a managed competition for printing services by July 1, 2005, unless other methods are more efficient; requiring a study by September 1, 2004, and report by November 1, 2004, of the impact of transferring all state agency employees delivering information technology services to the department of administrative services and physically merging the data centers of the department of administrative services, the department of workforce development, and the state department of transportation into one data center; authorizing the department to limit unified fleet management responsibilities to cars and small trucks and subjecting fleet management operations to a managed competition process by July 1, 2005, unless other methods are more efficient; and requiring periodic progress reports regarding implementation of 2003 Acts, ch 145, see 2003 Acts, ch 145, §289, 290

### **8A.101 Definitions.**

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

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

- a. The office of the governor or the office of an elective constitutional or statutory officer.
- b. The general assembly, or any office or unit under its administrative authority.

c. The judicial branch, as provided in section 602.1102.

d. A political subdivision of the state or its offices or units, including but not limited to a county, city, or community college.

2. "*Department*" means the department of administrative services.

3. "*Director*" means the director of the department of administrative services or the director's designee.

4. "*Governmental entity*" means any unit of government in the executive, legislative, or judicial branch of government; an agency or political subdivision; any unit of another state government, including its political subdivisions; any unit of the United States government; or any association or other organization whose membership consists primarily of one or more of any of the foregoing.

5. "*Governmental subdivision*" means a county, city, school district, or combination thereof.

6. "*Public records*" means the same as defined in section 22.1.

2003 Acts, ch 145, §1

### **8A.103 Department purpose mission.**

The department is created for the purpose of managing and coordinating the major resources of state government including the human, financial, physical, and information resources of state government.

The mission of the department is to implement a world-class, customer-focused organization that provides a complement of valued products and services to the internal customers of state government.

2003 Acts, ch 145, §3

### **8A.104 Powers and duties of the director.**

The director shall do all of the following:

1. Coordinate the internal operations of the department and develop and implement policies and procedures designed to ensure the efficient administration of the department.
2. Appoint all personnel deemed necessary for the administration of the department's functions as provided in this chapter.
3. Prepare an annual budget for the department.
4. Develop and recommend legislative proposals deemed necessary for the continued efficiency of the department's functions, and review legislative proposals generated outside the department which are related to matters within the department's purview.
5. Adopt rules deemed necessary for the administration of this chapter in accordance with chapter 17A.
6. Develop and maintain support systems within the department to provide appropriate administrative support and sufficient data for the effective and efficient operation of state government.
7. Enter into contracts for the receipt and provision of services as deemed necessary. The director and the

governor may obtain and accept grants and receipts to or for the state to be used for the administration of the department's functions as provided in this chapter.

8. Establish the internal organization of the department and allocate and reallocate duties and functions not assigned by law to an officer or any subunit of the department to promote economic and efficient administration and operation of the department.

9. Install a records system for the keeping of records which are necessary for a proper audit and effective operation of the department.

10. Determine which risk exposures shall be self-insured or assumed by the state with respect to loss and loss exposures of state government.

11. Keep in the director's office a complete record containing an itemized account of all state property, including furniture and equipment, under the director's care and control, and plans and surveys of the public grounds, buildings, and underground constructions at the seat of government and of the state laboratories facility in Ankeny.

12. Serve as the chief information officer for the state.

13. Exercise and perform such other powers and duties as may be prescribed by law.

2003 Acts, ch 145, §4

#### **8A.105 Prohibited interests penalty.**

The director shall not have any pecuniary interest, directly or indirectly, in any contract for supplies furnished to the state, or in any business enterprise involving any expenditure by the state. A violation of the provisions of this section shall be a serious misdemeanor, and upon conviction, the director shall be removed from office in addition to any other penalty.

2003 Acts, ch 145, §5

#### **8A.106 Public records.**

1. The records of the department, except personal information in an employee's file if the publication of such information would serve no proper public purpose, shall be public records and shall be open to public inspection, subject to reasonable rules as to the time and manner of inspection which may be prescribed by the director. However, the department shall not be required to release financial information, business, or product plans which if released would give advantage to competitors and serve no public purpose, relating to commercial operations conducted or intended to be conducted by the department.

2. The state agency that is the lawful custodian of a public record shall be responsible for determining whether a record is required by federal or state statute to be confidential. The transmission of a record by a state agency by use of electronic means established, maintained, or managed by the department shall not constitute a transfer of the legal custody of the record from the individual state agency to the department or to any other person or entity.

3. The department shall not have authority to determine whether an individual state agency should automate records of which the individual state agency is the lawful custodian. However, the department may encourage state agencies to implement electronic access to public records.

4. A state agency shall not limit access to a record by requiring a citizen to receive the record electronically

as the only means of providing the record. A person shall have the right to examine and copy a printed form of a public record as provided in section 22.2, unless the public record is confidential.

2003 Acts, ch 145, §6

#### **8A.107 Oaths and subpoenas.**

The director may administer oaths, subpoena witnesses, and compel the production of books and papers pertinent to any investigation or hearing authorized by this chapter. A person who fails to appear in response to a subpoena or produce books or papers pertinent to the investigation or hearing or who knowingly gives false testimony is guilty of a simple misdemeanor.

2003 Acts, ch 145, §7

#### **8A.108 Acceptance of funds.**

The department may receive and accept donations, grants, gifts, and contributions in the form of moneys, services, materials, or otherwise, from the United States or any of its agencies, from this state or any of its agencies, or from any other person, and may use or expend such moneys, services, materials, or other contributions, or issue grants, in carrying out the operations of the department. All federal grants to and the federal receipts of the department are hereby appropriated for the purpose set forth in such federal grants or receipts.

2003 Acts, ch 145, §8

#### **8A.109 Federal funds.**

1. Neither the provisions of this chapter nor rules adopted pursuant to this chapter shall apply in any situation where such provision or rule is in conflict with a governing federal regulation or where the provision or rule would jeopardize the receipt of federal funds.
2. If it is determined by the attorney general that any provision of this chapter would cause denial of funds or services from the United States government which would otherwise be available to an agency of this state, such provision shall be suspended as to such agency, but only to the extent necessary to prevent denial of such funds or services.

2003 Acts, ch 145, §9

#### **8A.110 State employee suggestion system.**

1. There is created a state employee suggestion system for the purpose of encouraging state employees to develop and submit ideas which will reduce costs and increase efficiency in state government and which will make monetary and other awards to state employees whose cost reduction ideas are adopted under the system.
2. The department shall provide necessary personnel for the efficient operation of the system. The department shall adopt rules as necessary for the administration of the system and to establish the award policy under which the system will operate. The rules shall include:
  - a. Eligibility standards and restrictions for both the state employee submitting the suggestion and the suggestion being submitted. The rules shall provide that suggestions relating to academic affairs, including teaching, research, and patient care programs at a university teaching hospital, are ineligible.

*b.* Procedures for submitting and evaluating suggestions, including the responsibilities of each person involved in the system and providing that the final decision to implement shall be made by the director of the applicable state agency.

*c.* The method of presentation of awards to employees.

*d.* The method of promoting the suggestion program in the broadest possible manner to state employees.

*e.* Any other policies necessary to properly administer the system.

3. *a.* When a suggestion is implemented and results in a direct cost reduction within state government, the suggester shall be awarded ten percent of the first year's net savings, not exceeding ten thousand dollars, and a certificate. A cash award shall not be awarded for a suggestion which saves less than one hundred dollars during the first year of implementation. The state agency head shall approve all awards and determine the amount to be awarded. Appeals of award amounts shall be submitted to the director whose decision is final.

*b.* Certificates shall be awarded to suggesters of implemented suggestions that result in a direct cost reduction of less than one hundred dollars. The state agency head shall make the determination as to who will receive certificates. That decision is final.

4. An award made pursuant to this section shall be paid for out of the appropriated funds of the state agency realizing the cost savings, but the payment for awards shall not violate any state or federal contract, law, or regulation, or impair any agency contractual obligation.

5. *a.* A state agency shall keep records of each suggestion implemented and the cost savings resulting from the suggestion for a period of one year from the date of implementation of the suggestion.

*b.* The director shall file a report with the governor and the general assembly for each fiscal year, relating to the administration and implementation of the suggestion system and the benefits for the state, the state departments, and state employees.

6. The ability of employees to patent ideas submitted under this section is subject to all other agency rules and Code requirements pertaining to patents.

2003 Acts, ch 145, §10

**8A.111 through 8A.120** Reserved.

**8A.121 Financing department services customer councils.**

1. The department shall establish a process by which the department shall determine which services provided by the department shall be funded by an appropriation to the department and which services shall be funded by the governmental entity receiving the service.

2. *a.* For services which the department determines shall be funded by the governmental entity receiving the service, the department shall establish a process for determining whether the department shall be the sole provider of the service or not.

*b.* If the department determines that it shall be the sole provider of a service, the department shall establish, by rule, a customer council responsible for overseeing departmental operations with regard to the service provided to ensure that the department meets the needs of affected governmental entities and the citizens those entities serve. The rules adopted shall provide, at a minimum, for the method of appointment of members to the council by governmental entities required to receive the service from the department and for

the powers and duties of the council as it relates to the service provided, which shall include the authority of approving, on an annual basis, business plans submitted by the department for performance of the service, the procedure for resolving complaints concerning the service provided, and the procedure for setting rates for the service. In addition, if the service to be provided may also be provided to the judicial branch and legislative branch, then the rules shall provide that the chief justice of the supreme court and the legislative council may, in their discretion, each appoint a member to the applicable customer council.

3. Departmental processes required to be established pursuant to this section shall provide, at a minimum, for input from affected governmental entities as well as for a biennial review by the appropriate customer council of the decision made by the department that the department should be the sole provider of a service.

4. The department shall annually prepare a listing separately identifying services to be provided by the department and funded by an appropriation, services to be provided by the department and funded by the governmental entity receiving the service, and services which the department is authorized to provide but which governmental entities may provide on their own or obtain from another provider of the service.

2003 Acts, ch 145, §11

#### **8A.122 Services to governmental entities.**

1. The director shall enter into agreements with state agencies, and may enter into agreements with any other governmental entity, to furnish services and facilities of the department to the applicable governmental entity. The agreement shall provide for the reimbursement to the department of the reasonable cost of the services and facilities furnished. All governmental entities of this state may enter into such agreements.

2. This chapter does not affect any city civil service programs established under chapter 400.

3. The state board of regents shall not be required to obtain any service for the state board of regents or any institution under the control of the state board of regents that is provided by the department pursuant to this chapter without the consent of the state board of regents.

2003 Acts, ch 145, §12

#### **8A.123 Department internal service funds.**

1. Activities of the department shall be accounted for within the general fund of the state, except that the director may establish and maintain internal service funds in accordance with generally accepted accounting principles, as defined in section 8.57, subsection 4, for activities of the department which are primarily funded from billings to governmental entities for services rendered by the department. The establishment of an internal service fund is subject to the approval of the director of the department of management and the concurrence of the auditor of state. At least ninety days prior to the establishment of an internal service fund pursuant to this section, the director shall notify in writing the general assembly, including the legislative council, legislative fiscal committee, and the legislative services agency.

2. Internal service funds shall be administered by the department and shall consist of moneys collected by the department from billings issued in accordance with section 8A.125 and any other moneys obtained or accepted by the department, including but not limited to gifts, loans, donations, grants, and contributions, which are designated to support the activities of the individual internal service funds. The director may obtain loans from the innovations fund created in section 8.63 for deposit in an internal service fund established pursuant to this section to provide seed and investment capital to enhance the delivery of services provided by the department.

3. The proceeds of an internal service fund established pursuant to this section shall be used by the

department for the operations of the department consistent with this chapter. The director may appoint the personnel necessary to ensure the efficient provision of services funded pursuant to an internal service fund established under this section. However, this usage requirement shall not limit or restrict the department from using proceeds from gifts, loans, donations, grants, and contributions in conformance with any conditions, directions, limitations, or instructions attached or related thereto.

4. Section 8.33 does not apply to any moneys in internal service funds established pursuant to this section. Notwithstanding section 12C.7, subsection 2, interest or earnings on moneys deposited in these funds shall be credited to these funds.

5. *a.* The director shall annually provide internal service fund service business plans and financial reports to the department of management and the general assembly. The business plans may include the recommendation that a portion of unexpended net income be periodically returned to the appropriate funding source.

*b.* The department shall submit an annual report not later than October 1 to the members of the general assembly and the legislative services agency of the activities funded by and expenditures made from an internal service fund established pursuant to this section during the preceding fiscal year.

2003 Acts, ch 35, § 46, 49; 2003 Acts, ch 145, §13

#### **8A.124 Additional personnel.**

The department may employ, upon the approval of the department of management, such additional personnel in excess of the number of full-time equivalent positions authorized by the general assembly if such additional personnel are reasonable and necessary to perform such duties as required to meet the needs of the department to provide services to other governmental entities and as authorized by this chapter. The director shall notify in writing the department of management, the legislative fiscal committee, and the legislative services agency of any additional personnel employed pursuant to this section.

2003 Acts, ch 35, § 46, 49; 2003 Acts, ch 145, §14

#### **8A.125 Billing credit card payments.**

1. The director may bill a governmental entity for services rendered by the department in accordance with the duties of the department as provided in this chapter. Bills may include direct, indirect, and developmental costs which have not been funded by an appropriation to the department. The department shall periodically render a billing statement to a governmental entity outlining the cost of services provided to the governmental entity. The amount indicated on the statement shall be paid by the governmental entity and amounts received by the department shall be considered repayment receipts as defined in section 8.2, and deposited into the accounts of the department.

2. In addition to other forms of payment, a person may pay by credit card for services provided by the department, according to rules adopted by the treasurer of state. The credit card fees to be charged shall not exceed those permitted by statute. A governmental entity may adjust its payment to reflect the costs of processing as determined by the treasurer of state. The discount charged by the credit card issuer may be included in determining the fees to be paid for completing a financial transaction under this section by using a credit card. All credit card payments shall be credited to the fund used to account for the services provided.

2003 Acts, ch 145, §15

#### **8A.126 Department debts and liabilities appropriation request.**

If a service provided by the department and funded from an internal service fund established under section 8A.123 ceases to be provided and insufficient funds remain in the internal service fund to pay any outstanding debts and liabilities relating to that service, the director shall notify the general assembly and request that moneys be appropriated from the general fund of the state to pay such debts and liabilities.

2003 Acts, ch 145, §16

**8A.127 through 8A.200** Reserved.

**8A.201 Definitions.**

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

1. *"Information technology"* means computing and electronics applications used to process and distribute information in digital and other forms and includes information technology devices, information technology services, and value-added services.
2. *"Information technology council"* means the information technology council established in section 8A.204.
3. *"Information technology device"* means equipment or associated software, including programs, languages, procedures, or associated documentation, used in operating the equipment which is designed for utilizing information stored in an electronic format. *"Information technology device"* includes but is not limited to computer systems, computer networks, and equipment used for input, output, processing, storage, display, scanning, and printing.
4. *"Information technology services"* means services designed to do any of the following:
  - a. Provide functions, maintenance, and support of information technology devices.
  - b. Provide services including, but not limited to, any of the following:
    - (1) Computer systems application development and maintenance.
    - (2) Systems integration and interoperability.
    - (3) Operating systems maintenance and design.
    - (4) Computer systems programming.
    - (5) Computer systems software support.
    - (6) Planning and security relating to information technology devices.
    - (7) Data management consultation.
    - (8) Information technology education and consulting.
    - (9) Information technology planning and standards.
    - (10) Establishment of local area network and workstation management standards.
5. *"Participating agency"* means any agency other than any of the following:

- a. The state board of regents and institutions operated under the authority of the state board of regents.
  - b. The public broadcasting division of the department of education.
  - c. The state department of transportation mobile radio network.
  - d. The department of public safety law enforcement communications systems and capitol complex security systems in use for the legislative branch.
  - e. The telecommunications and technology commission established in section 8D.3, with respect to information technology that is unique to the Iowa communications network.
  - f. The Iowa lottery authority.
  - g. A judicial district department of correctional services established pursuant to section 905.2.
6. *"Value-added services"* means services that offer or provide unique, special, or enhanced value, benefits, or features to the customer or user including, but not limited to, services in which information technology is specially designed, modified, or adapted to meet the special or requested needs of the user or customer; services involving the delivery, provision, or transmission of information or data that require or involve additional processing, formatting, enhancement, compilation or security; services that provide the customer or user with enhanced accessibility, security or convenience; research and development services; and services that are provided to support technological or statutory requirements imposed on participating agencies and other governmental entities, businesses, and the public.

2003 Acts, ch 145, §17

### **8A.202 Information technology services mission powers and duties responsibilities.**

1. *Mission.* The mission of the department as it relates to information technology services is to provide high-quality, customer-focused information technology services and business solutions to government and to citizens.
2. *Powers and duties of department.* The powers and duties of the department as it relates to information technology services shall include, but are not limited to, all of the following:
  - a. Providing information technology to agencies and other governmental entities.
  - b. Implementing the strategic information technology plan.
  - c. Developing and implementing a business continuity plan, as the director determines is appropriate, to be used if a disruption occurs in the provision of information technology to participating agencies and other governmental entities.
  - d. Prescribing standards and adopting rules relating to information technology and procurement, including but not limited to system design and systems integration and interoperability, which shall apply to all participating agencies except as otherwise provided in this chapter. The department shall implement information technology standards as established pursuant to this chapter which are applicable to information technology procurements for participating agencies.
  - e. Developing and maintaining an electronic repository for public access to reference copies of agency mandated reports, newsletters, and publications in conformity with section 305.10, subsection 1, paragraph "h". The department shall develop technical standards for an electronic repository in consultation with the

state librarian and the state archivist.

*f.* Developing and maintaining security policies and systems to ensure the integrity of the state's information resources and to prevent the disclosure of confidential records.

*g.* Developing and implementing effective and efficient strategies for the use and provision of information technology for participating agencies and other governmental entities.

*h.* Coordinating the acquisition of information technology by participating agencies in furtherance of the purposes of this chapter. The department shall institute procedures to ensure effective and efficient compliance with the applicable standards established pursuant to this subchapter. This subchapter shall not be construed to prohibit or limit a participating agency from entering into an agreement or contract for information technology with a qualified private entity.

*i.* Entering into contracts, leases, licensing agreements, royalty agreements, marketing agreements, memorandums of understanding, or other agreements as necessary and appropriate to administer this subchapter.

*j.* Requesting that a participating agency provide such information as is necessary to establish and maintain an inventory of information technology used by participating agencies, and such participating agency shall provide such information to the department in a timely manner. The form and content of the information to be provided shall be determined by the department.

*k.* Charging reasonable fees, costs, expenses, charges, or other amounts to an agency, governmental entity, public official, or person or entity related to the provision, sale, use, or utilization of, or cost sharing with respect to, information technology and any intellectual property interests related thereto; research and development; proprietary hardware, software, and applications; and information technology architecture and design. The department may enter into nondisclosure agreements and take any other legal action reasonably necessary to secure a right to an interest in information technology development by or on behalf of the state of Iowa and to protect the state of Iowa's proprietary information technology and intellectual property interests. The provisions of chapter 23A relating to noncompetition by state agencies and political subdivisions with private enterprise shall not apply to department activities authorized under this paragraph.

*l.* Charging reasonable fees, costs, expenses, charges, or other amounts to an agency, governmental entity, public official, or other person or entity to or for whom information technology or other services have been provided by or on behalf of, or otherwise made available through, the department.

*m.* Providing, selling, leasing, licensing, transferring, or otherwise conveying or disposing of information technology, or any intellectual property or other rights with respect thereto, to agencies, governmental entities, public officials, or other persons or entities.

*n.* Entering into partnerships, contracts, leases, or other agreements with public and private entities for the evaluation and development of information technology pilot projects.

*o.* Initiating and supporting the development of electronic commerce, electronic government, and internet applications across participating agencies and in cooperation with other governmental entities. The department shall foster joint development of electronic commerce and electronic government involving the public and private sectors, develop customer surveys and citizen outreach and education programs and material, and provide for citizen input regarding the state's electronic commerce and electronic government applications.

*3. Responsibilities.* The responsibilities of the department as it relates to information technology services include the following:

a. Coordinate the activities of the department in promoting, integrating, and supporting information technology in all business aspects of state government.

b. Provide for server systems, including mainframe and other server operations, desktop support, and applications integration.

c. Provide applications development, support, and training, and advice and assistance in developing and supporting business applications throughout state government.

4. *Information technology charges.* The department shall render a statement to an agency, governmental entity, public official, or other person or entity to or for whom information technology, value-added services, or other items or services have been provided by or on behalf of, or otherwise made available through, the department. Such an agency, governmental entity, public official, or other person or entity shall pay an amount indicated on such statement in a manner determined by the department.

5. *Dispute resolution.* If a dispute arises between the department and an agency for which the department provides or refuses to provide information technology, the dispute shall be resolved as provided in section 679A.19.

2003 Acts, ch 145, §18; 2003 Acts, ch 179, § 57, 84

#### **8A.203 Director information technology services powers and duties.**

The director shall do all of the following as it relates to information technology services:

1. Prescribe and adopt information technology standards and rules.
2. Develop and recommend legislative proposals deemed necessary for the continued efficiency of the department in performing information technology functions, and review legislative proposals generated outside of the department which are related to matters within the department's purview.
3. Provide advice to the governor on issues related to information technology.
4. Consult with agencies and other governmental entities on issues relating to information technology.
5. Work with all governmental entities in an effort to achieve the information technology goals established by the department.

2003 Acts, ch 145, §19

#### **8A.204 Information technology council members powers and duties.**

##### *1. Membership.*

a. The information technology council is composed of fourteen members including the following:

- (1) The chairperson of the Iowa Access advisory council established in section 8A.221, or the chairperson's designee.
- (2) Two executive branch department heads appointed by the governor.
- (3) Six persons appointed by the governor who are knowledgeable in information technology matters.

(4) One person representing the judicial branch appointed by the chief justice of the supreme court who shall serve in an ex officio, nonvoting capacity.

(5) Four members of the general assembly with not more than one member from each house being from the same political party. The two senators shall be designated by the president of the senate after consultation with the majority and minority leaders of the senate. The two representatives shall be designated by the speaker of the house of representatives after consultation with the majority and minority leaders of the house of representatives. Legislative members shall serve in an ex officio, nonvoting capacity. A legislative member is eligible for per diem and expenses as provided in section 2.10.

*b.* The members appointed pursuant to paragraph "*a*" shall serve four-year staggered terms and such appointments to the information technology council are subject to the requirements of sections 69.16, 69.16A, and 69.19. The four-year terms of members appointed by the governor shall be staggered as designated by the governor. Members appointed by the governor are subject to senate confirmation and may also be eligible to receive compensation as provided in section 7E.6. Members shall be reimbursed for actual and necessary expenses incurred in performance of the members' duties.

*c.* The information technology council shall annually elect its own chairperson from among the voting members of the council. A majority of the voting members of the council constitutes a quorum.

2. *Duties.* The information technology council shall do all of the following:

*a.* Advise the department in the development of recommended standards for consideration with respect to the procurement of information technology by all participating agencies.

*b.* Appoint advisory committees as appropriate to assist the department in developing strategies for the use and provision of information technology and establishing other advisory committees as necessary to assist the information technology council in carrying out its duties under this subchapter. The number of advisory committees and their membership shall be determined by the information technology council to assure that the public and agencies and other governmental entities have an opportunity to comment on the services provided and the service goals and objectives of the department.

*c.* Advise the department in the preparation and annual update of the strategic information technology plan for the use of information technology throughout state government. The plan shall promote participation in cooperative projects with other governmental entities. The plan shall establish a mission, goals, and objectives for the use of information technology, including goals for electronic access to public records, information, and services. The plan shall be submitted annually to the governor and the general assembly.

*d.* Review, as deemed appropriate by the information technology council, legislative proposals recommended by the director, or other legislative proposals as developed and deemed necessary by the information technology council.

*e.* Review the recommendations of the IowaAccess advisory council regarding rates to be charged for access to and for value-added services performed through IowaAccess. The information technology council shall report the establishment of a new rate or change in the level of an existing rate to the department who will then notify the department of management, and the department of management shall notify the legislative services agency regarding the rate establishment or change.

2003 Acts, ch 35, § 46, 49; 2003 Acts, ch 145, §20, 293

## **Footnotes**

Confirmation, § 2.32

### **8A.205 Digital government.**

1. The department is responsible for initiating and supporting the development of electronic commerce, electronic government, and internet applications across participating agencies and in cooperation with other governmental entities.
2. In developing the concept of digital government, the department shall do all of the following:
  - a. Establish standards, consistent with other state law, for the implementation of electronic commerce, including standards for digital signatures, electronic currency, and other items associated with electronic commerce.
  - b. Establish guidelines for the appearance and functioning of applications.
  - c. Establish standards for the integration of electronic data across state agencies.
  - d. Foster joint development of electronic commerce and electronic government involving the public and private sectors.
  - e. Develop customer surveys and citizen outreach and education programs and material, and provide for citizen input regarding the state's electronic commerce and electronic government applications.
  - f. Provide staff support for the IowaAccess advisory council.

2003 Acts, ch 145, §21

### **8A.206 Information technology standards.**

1. The department shall develop, in consultation with the information technology council, recommended standards for consideration with respect to the procurement of information technology by all participating agencies. It is the intent of the general assembly that information technology standards be established for the purpose of guiding such procurements. Such standards, unless waived by the department, shall apply to all information technology procurements for participating agencies.
2. The office of the governor or the office of an elective constitutional or statutory officer shall consult with the department prior to procuring information technology and consider the standards recommended by the department, and provide a written report to the department relating to the office's decision regarding such acquisitions.

2003 Acts, ch 145, §22

### **8A.207 Procurement of information technology.**

1. Standards established by the department, unless waived by the department, shall apply to all information technology procurements for participating agencies.
2. The department shall institute procedures to ensure effective and efficient compliance with standards established by the department.
3. The department, by rule, may implement a prequalification procedure for contractors with which the department has entered or intends to enter into agreements regarding the procurement of information

technology.

4. Notwithstanding the provisions governing purchasing as provided in subchapter III, the department may procure information technology as provided in this section. The department may cooperate with other governmental entities in the procurement of information technology in an effort to make such procurements in a cost-effective, efficient manner as provided in this section. The department, as deemed appropriate and cost-effective, may procure information technology using any of the following methods:

*a. Cooperative procurement agreement.* The department may enter into a cooperative procurement agreement with another governmental entity relating to the procurement of information technology, whether such information technology is for the use of the department or other governmental entities. The cooperative procurement agreement shall clearly specify the purpose of the agreement and the method by which such purpose will be accomplished. Any power exercised under such agreement shall not exceed the power granted to any party to the agreement.

*b. Negotiated contract.* The department may enter into an agreement for the purchase of information technology if any of the following applies:

(1) The contract price, terms, and conditions are pursuant to the current federal supply contract, and the purchase order adequately identifies the federal supply contract under which the procurement is to be made.

(2) The contract price, terms, and conditions are no less favorable than the contractor's current federal supply contract price, terms, and conditions; the contractor has indicated in writing a willingness to extend such price, terms, and conditions to the department; and the purchase order adequately identifies the contract relied upon.

(3) The contract is with a vendor which has a current exclusive or nonexclusive price agreement with the state for the information technology to be procured, and such information technology meets the same standards and specifications as the items to be procured and both of the following apply:

(a) The quantity purchased does not exceed the quantity which may be purchased under the applicable price agreement.

(b) The purchase order adequately identifies the price agreement relied upon.

*c. Contracts let by another governmental entity.* The department, on its own behalf or on the behalf of another participating agency or governmental entity, may procure information technology under a contract let by another agency or other governmental entity, or approve such procurement in the same manner by a participating agency or governmental entity.

*d. Reverse auction.*

(1) The department may enter into an agreement for the purchase of information technology utilizing a reverse auction process. Such process shall result in the purchase of information technology from the vendor submitting the lowest responsible bid amount for the information technology to be acquired. The department, in establishing a reverse auction process, shall do all of the following:

(a) Determine the specifications and requirements of the information technology to be acquired.

(b) Identify and provide notice to potential vendors concerning the proposed acquisition.

(c) Establish prequalification requirements to be met by a vendor to be eligible to participate in the reverse auction.

(d) Conduct the reverse auction in a manner as deemed appropriate by the department and consistent with rules adopted by the department.

(2) Prior to conducting a reverse auction, the department shall establish a threshold amount which shall be the maximum amount which the department is willing to pay for the information technology to be acquired.

(3) The department shall enter into an agreement with a vendor who is the lowest responsible bidder which meets the specifications or description of the information technology to be procured, or the department may reject all bids and begin the process again. In determining the lowest responsible bidder, the department may consider various factors including, but not limited to, the past performance of the vendor relative to quality of product or service, the past experience of the department in relation to the product or service, the relative quality of products or services, the proposed terms of delivery, and the best interest of the state.

*e. Competitive bidding.* The department may enter into an agreement for the procurement or acquisition of information technology in the same manner as provided under subchapter III for the purchasing of service.

*f. Other agreements.* In addition to the competitive bidding procedure provided for under paragraph "e", the department may enter into an agreement for the purchase, disposal, or other disposition of information technology in the same manner and subject to the same limitations as otherwise provided in this chapter. The department, by rule, shall provide for such procedures.

5. The department shall adopt rules pursuant to chapter 17A to implement the procurement methods and procedures provided for in subsections 2 through 4.

2003 Acts, ch 145, §23

**8A.208 through 8A.220** Reserved.

**8A.221 IowAccess advisory council established duties membership.**

1. *Advisory council established.* An IowAccess advisory council is established within the department for the purpose of creating and providing a service to the citizens of this state that is the gateway for one-stop electronic access to government information and 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 department, in establishing the fees for value-added services, shall consider the reasonable cost of creating and organizing such government information through IowAccess.

2. *Duties.*

*a.* The advisory council shall do all of the following:

(1) Recommend to the information technology council rates to be charged for access to and for value-added services performed through IowAccess.

(2) Recommend to the director the priority of projects associated with IowAccess.

(3) Recommend to the director expected outcomes and effects of the use of IowAccess and determine the manner in which such outcomes are to be measured and evaluated.

(4) Review and recommend to the director the IowAccess total budget request and ensure that such request reflects the priorities and goals of IowAccess as established by the advisory council.

(5) Review and recommend to the director all rules to be adopted by the department that are related to

IowAccess.

(6) Advocate for access to government information and services through IowAccess and for data privacy protection, information ethics, accuracy, and security in IowAccess programs and services.

(7) Receive status and operations reports associated with IowAccess.

(8) Other duties as assigned by the director.

b. The advisory council shall also advise the director with respect to the operation of IowAccess and encourage and implement access to government and its public records by the citizens of this state.

c. The advisory council shall serve as a link between the users of public records, the lawful custodians of such public records, and the citizens of this state who are the owners of such public records.

d. The advisory council shall ensure that IowAccess gives priority to serving the needs of the citizens of this state.

### 3. *Membership.*

a. The advisory council shall be composed of nineteen members including the following:

(1) Five persons appointed by the governor representing the primary customers of IowAccess.

(2) Six persons representing lawful custodians as follows:

(a) One person representing the legislative branch, who shall not be a member of the general assembly, to be appointed jointly by the president of the senate, after consultation with the majority and minority leaders of the senate, and by the speaker of the house of representatives, after consultation with the majority and minority leaders of the house of representatives.

(b) One person representing the judicial branch as designated by the chief justice of the supreme court.

(c) One person representing the executive branch as designated by the governor.

(d) One person to be appointed by the governor representing cities who shall be actively engaged in the administration of a city.

(e) One person to be appointed by the governor representing counties who shall be actively engaged in the administration of a county.

(f) One person to be appointed by the governor representing the federal government.

(3) Four members to be appointed by the governor representing a cross section of the citizens of the state.

(4) Four members of the general assembly, two from the senate and two from the house of representatives, with not more than one member from each chamber being from the same political party. The two senators shall be designated by the president of the senate after consultation with the majority and minority leaders of the senate. The two representatives shall be designated by the speaker of the house of representatives after consultation with the majority and minority leaders of the house of representatives. Legislative members shall serve in an ex officio, nonvoting capacity. A legislative member is eligible for per diem and expenses as provided in section 2.10.

*b.* Members appointed by the governor are subject to confirmation by the senate and shall serve four-year staggered terms as designated by the governor. The advisory council shall annually elect its own chairperson from among the voting members of the board. Members appointed by the governor are subject to the requirements of sections 69.16, 69.16A, and 69.19. Members appointed by the governor shall be reimbursed for actual and necessary expenses incurred in performance of their duties. Such members may also be eligible to receive compensation as provided in section 7E.6.

4. This section shall not be construed to impair the right of a person to contract to purchase information or data from the Iowa court information system or any other governmental entity. This section shall not be construed to affect a data purchase agreement or contract in existence on April 25, 2000.

2003 Acts, ch 145, §24

## **Footnotes**

Confirmation, § 2.32

Initial appointments to IowAccess advisory council; 2000 Acts, ch 1141, § 18, 19

## **8A.222 Financial transactions.**

1. Moneys paid to a participating agency from persons who complete an electronic financial transaction with the agency by accessing IowAccess shall be transferred to the treasurer of state for deposit in the general fund of the state, unless the disposition of the moneys is specifically provided for under other law. The moneys may include all of the following:

*a.* Fees required to obtain an electronic public record as provided in section 22.3A.

*b.* Fees required to process an application or file a document, including but not limited to fees required to obtain a license issued by a licensing authority.

*c.* Moneys owed to a governmental entity by a person accessing IowAccess in order to satisfy a liability arising from the operation of law, including the payment of assessments, taxes, fines, and civil penalties.

2. Moneys transferred using IowAccess may include amounts owed by a governmental entity to a person accessing IowAccess in order to satisfy a liability of the governmental entity. The moneys may include the payment of tax refunds, and the disbursement of support payments as defined in section 252D.16 or 598.1 as required for orders issued pursuant to section 252B.14.

3. In addition to other forms of payment, credit cards shall be accepted in payment for moneys owed to or fees imposed by a governmental entity in the same manner as provided in section 8A.125.

4. Notwithstanding any other provision of this section, the department may establish for the fiscal years beginning July 1, 2003, and ending June 30, 2005, a pilot project for fee collection. Fees shall be collected based on the ability to access court information from remote locations.

2003 Acts, ch 145, §25

## **8A.223 Audits required.**

A technology audit of the electronic transmission system by which government records are transmitted electronically to the public shall be conducted not less than once annually for the purpose of determining that government records and other electronic data are not misappropriated or misused by the department or a contractor of the department.

2003 Acts, ch 145, §26

#### **8A.224 IowAccess revolving fund.**

An IowAccess revolving fund is created in the state treasury. The revolving fund shall be administered by the department and shall consist of moneys collected by the department as fees, moneys appropriated by the general assembly, and any other moneys obtained or accepted by the department for deposit in the revolving fund. The proceeds of the revolving fund are appropriated to and shall be used by the department to maintain, develop, operate, and expand IowAccess consistent with this subchapter. The department shall submit an annual report not later than January 31 to the members of the general assembly and the legislative services agency of the activities funded by and expenditures made from the revolving fund during the preceding fiscal year. Section 8.33 does not apply to any moneys in the revolving fund and, notwithstanding section 12C.7, subsection 2, earnings or interest on moneys deposited in the revolving fund shall be credited to the revolving fund.

2003 Acts, ch 35, § 46, 49; 2003 Acts, ch 145, §27

#### **8A.225 through 8A.300 Reserved.**

#### **8A.301 Definitions.**

When used in this subchapter, unless the context otherwise requires:

1. "*Bid specification*" means the standards or qualities which must be met before a contract to purchase will be awarded and any terms which the director has set as a condition precedent to the awarding of a contract.
2. "*Competitive bidding procedure*" means the advertisement for, solicitation of, or the procurement of bids; the manner and condition in which bids are received; and the procedure by which bids are opened, accessed, accepted, rejected, or awarded. A "*competitive bidding procedure*" may include a transaction accomplished in an electronic format.
3. "*Life cycle cost*" means the expected total cost of ownership during the life of a product.
4. "*Printing*" means, as used in chapter 7A and this subchapter, the reproduction of an image from a printing surface made generally by a contact impression that causes a transfer of ink, the reproduction of an impression by a photographic process, or the reproduction of an image by electronic means and shall include binding and may include material, processes, or operations necessary to produce a finished printed product, but shall not include binding, rebinding or repairs of books, journals, pamphlets, magazines and literary articles by any library of the state or any of its offices, departments, boards, and commissions held as a part of their library collection.
5. "*State buildings and grounds*" excludes any building under the custody and control of the Iowa public employees' retirement system.

2003 Acts, ch 145, §28

#### **8A.302 Departmental duties physical resources.**

The duties of the department as it relates to the physical resources of state government shall include but not necessarily be limited to the following:

1. Providing a system of uniform standards and specifications for purchasing. When the system is developed, all items of general use shall be purchased by state agencies through the department, except items used by the state department of transportation, institutions under the control of the state board of regents, the department for the blind, and any other agencies exempted by law. However, items of general use may be purchased through the department by any governmental entity.
2. Providing for the proper maintenance of the state capitol, grounds, and equipment, and all other state buildings and grounds, and equipment at the seat of government, and of the state laboratories facility in Ankeny, except those referred to in section 216B.3, subsection 6.
3. Providing for mail services for all state officials, agencies, and departments located at the seat of government. However, postage shall not be furnished to the general assembly, its members, officers, employees, or committees.
4. Providing architectural services, contracting for construction and construction oversight for state agencies except for the state board of regents, state department of transportation, national guard, natural resource commission, and the Iowa public employees' retirement system. Capital funding appropriated to state agencies, except to the state board of regents, state department of transportation, national guard, natural resource commission, and the Iowa public employees' retirement system, for property management shall be transferred for administration to the director of the department of administrative services.
5. Developing and implementing procedures to conduct transactions, including purchasing, authorized by this subchapter in an electronic format to the extent determined appropriate by the department. The director shall adopt rules establishing criteria for competitive bidding procedures involving transactions in an electronic format, including criteria for accepting or rejecting bids which are electronically transmitted to the department, and for establishing with reasonable assurance the authenticity of the bid and the bidder's identity.
6. Providing insurance for motor vehicles owned by the state.

2003 Acts, ch 145, §29

**8A.303 through 8A.310 Reserved.**

**8A.311 Competitive bidding preferences reciprocal application direct purchasing.**

The director shall adopt rules establishing competitive bidding procedures.

1. All equipment, supplies, or services procured by the department shall be purchased by a competitive bidding procedure. However, the director may exempt by rule purchases of noncompetitive items and purchases in lots or quantities too small to be effectively purchased by competitive bidding. Preference shall be given to purchasing Iowa products and purchases from Iowa-based businesses if the Iowa-based business bids submitted are comparable in price to bids submitted by out-of-state businesses and otherwise meet the required specifications. If the laws of another state mandate a percentage preference for businesses or products from that state and the effect of the preference is that bids of Iowa businesses or products that are otherwise low and responsive are not selected in the other state, the same percentage preference shall be applied to Iowa businesses and products when businesses or products from that other state are bid to supply Iowa requirements.
2. The director may also exempt the purchase of an item or service from a competitive bidding procedure

when the director determines that the best interests of the state will be served by the exemption which shall be based on one of the following:

- a.* An immediate or emergency need existing for the item or service.
  - b.* A need to protect the health, safety, or welfare of persons occupying or visiting a public improvement or property located adjacent to the public improvement.
3. *a.* The director may contract for the purchase of items or services by the department. Contracts for the purchase of items or services shall be awarded on the basis of the lowest competent bid. Contracts not based on competitive bidding shall be awarded on the basis of bidder competence and reasonable price.
- b.* Architectural and engineering services shall be procured in a reasonable manner, as the director by rule may determine, on the basis of competence and qualification for the type of services required and for a fair and reasonable price.
4. The director may refuse all bids on any item or service and request new bids.
5. The director shall establish by rule the amount of security, if any, to accompany a bid or as a condition precedent to the awarding of any contract and the circumstances under which a security will be returned to the bidder or forfeited to the state.
6. The director shall adopt rules providing a method for the various state agencies to file with the department a list of those supplies, equipment, machines, and all items needed to properly perform their governmental duties and functions.
7. The director shall furnish a list of specifications, prices, and discounts of contract items to any governmental subdivision which shall be responsible for payment to the vendor under the terms and conditions outlined in the state contract.
8. The director shall adopt rules providing that any state agency may, upon request, purchase directly from a vendor if the direct purchasing is as economical or more economical than purchasing through the department, or upon a showing that direct purchasing by the state agency would be in the best interests of the state due to an immediate or emergency need. The rules shall include a provision permitting a state agency to purchase directly from a vendor, on the agency's own authority, if the purchase will not exceed five thousand dollars and the purchase will contribute to the agency complying with or exceeding the targeted small business procurement goals under sections 73.15 through 73.21.

Any member of the executive council may bring before the executive council for review a decision of the director granting a state agency request for direct purchasing. The executive council shall hear and review the director's decision in the same manner as an appeal filed by an aggrieved bidder, except that the three-day period for filing for review shall not apply.

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

*b.* In awarding a contract under this subsection, the department shall let the work to the lowest responsible bidder submitting a sealed proposal. However, if the department considers the bids received not to be

acceptable, all bids may be rejected and new bids requested. A bid shall be accompanied by a certified or cashier's check or bid bond in an amount designated in the advertisement for bids as security that the bidder will enter into a contract for the work requested. The department shall establish the bid security in an amount equal to at least five percent, but not more than ten percent of the estimated total cost of the work. The certified or cashier's checks or bid bonds of unsuccessful bidders shall be returned as soon as the successful bidder is determined. The certified or cashier's check or bid bond of the successful bidder shall be returned upon execution of the contract. This subsection does not apply to the construction, erection, demolition, alteration, or repair of a public improvement when the contracting procedure for the work requested is otherwise provided for in law.

10. The state and its political subdivisions shall give preference to purchasing Iowa products and purchasing from Iowa-based businesses if the bids submitted are comparable in price to those submitted by other bidders and meet the required specifications.

11. The director shall adopt rules which require that each bid received for the purchase of items purchased by the department includes a product content statement which provides the percentage of the content of the item which is reclaimed material.

12. The director shall review and, where necessary, revise specifications used by state agencies to procure products in order to ensure all of the following:

*a.* The procurement of products containing recovered materials, including but not limited to lubricating oils, retread tires, building insulation materials, and recovered materials from waste tires. The specifications shall be revised if they restrict the use of alternative materials, exclude recovered materials, or require performance standards which exclude products containing recovered materials unless the agency seeking the product can document that the use of recovered materials will hamper the intended use of the product.

*b.* The procurement by state agencies of bio-based hydraulic fluids, greases, and other industrial lubricants manufactured from soybeans in accordance with the requirements of section 8A.316.

13. A bidder awarded a state construction contract shall disclose the names of all subcontractors, who will work on the project being bid, within forty-eight hours after the award of the contract.

If a subcontractor named by a bidder awarded a state construction contract is replaced, or if the cost of work to be done by a subcontractor is reduced, the bidder shall disclose the name of the new subcontractor or the amount of the reduced cost.

14. A state agency shall make every effort to purchase those products produced for sale by sheltered workshops, work activity centers, and other special programs funded in whole or in part by public moneys that employ persons with mental retardation or other developmental disabilities or mental illness if the products meet the required specifications.

15. A state agency shall make every effort to purchase products produced for sale by employers of persons in supported employment.

16. The department shall not award a contract to a bidder for a construction, reconstruction, demolition, or repair project or improvement with an estimated cost that exceeds twenty-five thousand dollars in which the bid requires the use of inmate labor supplied by the department of corrections, but not employed by private industry pursuant to section 904.809, to perform the project or improvement.

17. This section does not apply to Iowa technology center contracts in support of activities performed for another governmental entity, either state or federal. The Iowa technology center is an entity created by a chapter 28E agreement entered into by the department of public defense.

18. Life cycle cost and energy efficiency shall be included in the criteria used by the department, institutions under the control of the state board of regents, the state department of transportation, the department for the blind, and other state agencies in developing standards and specifications for purchasing energy-consuming products. For purposes of this subsection, the life cycle costs of American motor vehicles shall be reduced by five percent in order to determine if the motor vehicle is comparable to foreign-made motor vehicles.

*"American motor vehicles"* includes those vehicles manufactured in this state and those vehicles in which at least seventy percent of the value of the motor vehicle was manufactured in the United States or Canada and at least fifty percent of the motor vehicle sales of the manufacturer are in the United States or Canada. In determining the life cycle costs of a motor vehicle, the costs shall be determined on the basis of the bid price, the resale value, and the operating costs based upon a useable life of five years or seventy-five thousand miles, whichever occurs first.

19. Preference shall be given to purchasing American-made products and purchases from American-based businesses if the life cycle costs are comparable to those products of foreign businesses and which most adequately fulfill the department's need.

2003 Acts, ch 145, §30

### **Footnotes**

Preferences; see also chapter 73, §73A.21

### **8A.312 Cooperative purchasing.**

The director may purchase items through the state department of transportation, institutions under the control of the state board of regents, and any other agency exempted by law from centralized purchasing. These state agencies shall upon request furnish the director with a list of and specifications for all items of office equipment, furniture, fixtures, motor vehicles, heavy equipment, and other related items to be purchased during the next quarter and the date by which the director must file with the agency the quantity of items to be purchased by the state agency for the department. The department shall be liable to the state agency for the proportionate costs the items purchased for the department bear to the total purchase price. When items purchased have been delivered, the state agency shall notify the director and after receipt of the purchase price shall release the items to the director or upon the director's order.

2003 Acts, ch 145, §31

### **8A.313 Disputes involving purchasing from Iowa state industries.**

Disputes arising between the department of corrections and a purchasing department or agency over the procurement of products from Iowa state industries as described in section 904.808 shall be referred to the director. The decision of the director is final unless a written appeal is filed with the executive council within five days of receipt of the decision of the director, excluding Saturdays, Sundays, and legal holidays. If an appeal is filed, the executive council shall hear and determine the appeal within thirty days. The decision of the executive council is final.

2003 Acts, ch 145, §32

### **8A.314 Purchasing revolving fund.**

1. A purchasing revolving fund is established within the department. The director shall keep an accurate itemized account for each state agency purchasing through the department, using services provided for by the department, and using postage supplied by the department.

2. At the end of each month the director shall render a statement to each state agency for the actual cost of items purchased through the department, and the actual cost of services and postage used by the agency. The monthly statement shall also include a fair proportion of the administrative costs of the department during the month. The portion of administrative costs shall be determined by the director subject to review by the executive council upon complaint from any state agency adversely affected.

3. Statements rendered to the various state agencies shall be paid by the state agencies in the manner determined by the department. When the statements are paid the sums shall be credited to the purchasing revolving fund. If any funds accrue to the revolving fund in excess of two hundred twenty-five thousand dollars and there is no anticipated need or use for such funds, the governor shall order the excess funds credited to the general fund of the state.

2003 Acts, ch 145, §33

### **8A.315 State purchases recycled products soybean-based inks.**

1. When purchasing paper products other than printing and writing paper, the department shall, when the price is reasonably competitive and the quality as intended, purchase the recycled product. The department shall also purchase, when the price is reasonably competitive and the quality as intended, and in keeping with the schedule established in this subsection, soybean-based inks and plastic products with recycled content including but not limited to plastic garbage can liners.

*a.* One hundred percent of the purchases of inks which are used for newsprint printing services performed internally or contracted for by the department shall be soybean-based.

*b.* One hundred percent of the purchases of inks, other than inks which are used for newsprint printing services, and which are used internally or contracted for by the department, shall be soybean-based to the extent formulations for such inks are available.

*c.* A minimum of ten percent of the purchases of garbage can liners made by the department shall be plastic garbage can liners with recycled content. The percentage shall increase by ten percent annually until fifty percent of the purchases of garbage can liners are plastic garbage can liners with recycled content.

*d.* The department shall report to the general assembly on February 1 of each year the following:

(1) A listing of plastic products which are regularly purchased by the department and other state agencies for which recycled content product alternatives are available, including the cost of the plastic products purchased and the cost of the recycled content product alternatives.

(2) Information relating to soybean-based inks and plastic garbage can liners with recycled content regularly purchased by the department and other state agencies, including the cost of purchasing soybean-based inks and plastic garbage can liners with recycled content and the percentages of soybean-based inks and plastic garbage can liners with recycled content that have been purchased.

*e.* For purposes of this subsection, "*recycled content*" means that the content of the product contains a minimum of thirty percent postconsumer material.

2. *a.* Except as otherwise provided in this section, the department shall purchase and use recycled printing and writing paper so that ninety percent of the volume of printing and writing paper purchased is recycled paper. The recycled printing and writing paper shall meet the requirements for procuring recycled printing and writing paper set forth in 40 C.F.R. pt. 247, and in related recovered materials advisory notices issued by the United States environmental protection agency.

b. The department shall establish a prioritization procedure for the purchase of recycled paper which provides for a five percent differential in the cost of the purchase of paper which has been recycled through the use of a nonchlorinated process.

c. If a provision under this subsection results in the limitation of sources for the purchase of printing and writing paper to three or fewer sources, the department may waive the requirement in order to purchase necessary amounts of printing and writing paper.

d. Notwithstanding the requirements of this subsection regarding the purchase of recycled printing and writing paper, the department shall purchase acid-free permanent paper in the amount necessary for the production or reproduction of documents, papers, or similar materials produced or reproduced for permanent preservation pursuant to law.

3. The department, in conjunction with the department of natural resources, shall review the procurement specifications currently used by the state to eliminate, wherever possible, discrimination against the procurement of products manufactured with recovered materials and soybean-based inks.

4. The department of natural resources shall assist the department in locating suppliers of recycled products and soybean-based inks and collecting data on recycled content and soybean-based ink purchases.

5. Information on recycled content shall be requested on all bids for paper products other than printing and writing paper issued by the state and on other bids for products which could have recycled content such as oil, plastic products, including but not limited to compost materials, aggregate, solvents, soybean-based inks, and rubber products. Except for purchases of printing and writing paper made pursuant to subsection 2, paragraphs "c" and "d", the department shall require persons submitting bids for printing and writing paper to certify that the printing and writing paper proposed complies with the requirements referred to in subsection 2, paragraph "a".

6. The department, in conjunction with the department of natural resources, shall adopt rules to administer this section.

7. All state agencies shall fully cooperate with the department and with the department of natural resources in all phases of implementing this section.

8. The department, whenever technically feasible, shall purchase and use degradable loose foam packing material manufactured from grain starches or other renewable resources, unless the cost of the packing material is more than ten percent greater than the cost of packing material made from nonrenewable resources. For the purposes of this subsection, "*packing material*" means material, other than an exterior packing shell, that is used to stabilize, protect, cushion, or brace the contents of a package.

2003 Acts, ch 145, §34

### **8A.316 Lubricants and oils preferences.**

The department shall do all of the following:

1. Revise its procedures and specifications for the purchase of lubricating oil and industrial oil to eliminate exclusion of recycled oils and any requirement that oils be manufactured from virgin materials.

2. Require that purchases of lubricating oil and industrial oil be made from the seller whose oil product contains the greatest percentage of recycled oil, unless one of the following circumstances regarding a specific oil product containing recycled oil exists:

- a. The product is not available within a reasonable period of time or in quantities necessary or in container sizes appropriate to meet a state agency's needs.
- b. The product does not meet the performance requirements or standards recommended by the equipment or vehicle manufacturer, including any warranty requirements.
- c. The product is available only at a cost greater than one hundred five percent of the cost of comparable virgin oil products.
3. Establish and maintain a preference program for procuring oils containing the maximum content of recycled oil. The preference program shall include but is not limited to all of the following:
- a. The inclusion of the preferences for recycled oil products in publications used to solicit bids from suppliers.
- b. The provision of a description of the recycled oil procurement program at bidders' conferences.
- c. Discussion of the preference program in lubricating oil and industrial oil procurement solicitations or invitations to bid.
- d. Efforts to inform industry trade associations about the preference program.
4. a. Provide that when purchasing hydraulic fluids, greases, and other industrial lubricants, the department or a state agency authorized by the department to directly purchase hydraulic fluids, greases, and other industrial lubricants shall give preference to purchasing bio-based hydraulic fluids, greases, and other industrial lubricants manufactured from soybeans.
- b. Provide for the implementation of requirements necessary in order to carry out this subsection by the department or state agency making the purchase, which shall include all of the following:
- (1) Including the preference requirements in publications used to solicit bids for hydraulic fluids, greases, and other industrial lubricants.
- (2) Describing the preference requirements at bidders' conferences in which bids for the sale of hydraulic fluids, greases, and other industrial lubricants are sought by the department or authorized state agency.
- (3) Discussing the preference requirements in procurement solicitations or invitations to bid for hydraulic fluids, greases, and other industrial lubricants.
- (4) Informing industry trade associations about the preference requirements.
- c. As used in this subsection, unless the context otherwise requires:
- (1) "*Bio-based hydraulic fluids, greases, and other industrial lubricants*" means the same as defined by the United States department of agriculture, if the department has adopted such a definition. If the United States department of agriculture has not adopted a definition, "*bio-based hydraulic fluids, greases, and other industrial lubricants*" means hydraulic fluids, greases, and other lubricants containing a minimum of fifty-one percent soybean oil.
- (2) "*Other industrial lubricants*" means lubricants used or applied to machinery.

**8A.317 through 8A.320** Reserved.

**8A.321 Physical resources and facility management director duties appropriation.**

In managing the physical resources of government, the director shall perform all of the following duties:

1. Provide for supervision over the custodians and other employees of the department in and about the capitol and other state buildings, and the state laboratories facility in Ankeny, except the buildings and grounds referred to in section 216B.3, subsection 6, at the seat of government.
2. Institute, in the name of the state, and with the advice and consent of the attorney general, civil and criminal proceedings against any person for injury or threatened injury to any public property, including but not limited to intangible and intellectual property, under the person's control.
3. Under the direction of the governor, provide, furnish, and pay for public utilities service, heat, maintenance, minor repairs, and equipment in operating and maintaining the official residence of the governor of Iowa.
4. Contract, with the approval of the executive council, for the repair, remodeling, or, if the condition warrants, demolition of all buildings and grounds of the state at the seat of government, at the state laboratories facility in Ankeny, and the institutions of the department of human services and the department of corrections for which no specific appropriation has been made, if the cost of repair, remodeling, or demolition will not exceed one hundred thousand dollars when completed. The cost of repair projects for which no specific appropriation has been made shall be paid from the fund provided in section 7D.29.
5. Dispose of all personal property of the state under the director's control as provided by section 8A.324 when it becomes unnecessary or unfit for further use by the state. If the director concludes that the personal property is contaminated, contains hazardous waste, or is hazardous waste, the director may charge the state agency responsible for the property for removal and disposal of the personal property. The director shall adopt rules establishing the procedures for inspecting, selecting, and removing personal property from state agencies or from state storage.
6. *a.* Lease all buildings and office space necessary to carry out the provisions of this subchapter or necessary for the proper functioning of any state agency at the seat of government. For state agencies at the seat of government, the director may lease buildings and office space in Polk county or in a county contiguous to Polk county. If no specific appropriation has been made, the proposed lease shall be submitted to the executive council for approval. The cost of any lease for which no specific appropriation has been made shall be paid from the fund provided in section 7D.29.
- b.* When the general assembly is not in session, the director may request moneys from the executive council for moving state agencies located at the seat of government from one location to another. The request may include moving costs, telecommunications costs, repair costs, or any other costs relating to the move. The executive council may approve and shall pay the costs from funds provided in section 7D.29 if it determines the agency or department has no available funds for these expenses.
- c.* Coordinate the leasing of buildings and office space by state agencies throughout the state and develop cooperative relationships with the state board of regents in order to promote the colocation of state agencies.
7. Unless otherwise provided by law, coordinate the location, design, plans and specifications, construction, and ultimate use of the real or personal property to be purchased by a state agency for whose benefit and use the property is being obtained. If the purchase of real or personal property is to be financed pursuant to section 12.28, the department shall cooperate with the treasurer of state in providing the information necessary to complete the financing of the property.

A contract for acquisition, construction, erection, demolition, alteration, or repair by a private person of real or personal property to be lease-purchased by the treasurer of state pursuant to section 12.28 is exempt from section 8A.311, subsections 1 and 9, unless the lease-purchase contract is funded in advance by a deposit of the lessor's moneys to be administered by the treasurer of state under a lease-purchase contract which requires rent payments to commence upon delivery of the lessor's moneys to the lessee.

8. With the authorization of a constitutional majority of each house of the general assembly and approval by the governor, dispose of real property belonging to the state and its state agencies upon terms, conditions, and consideration as the director may recommend. If real property subject to sale under this subsection has been purchased or acquired from appropriated funds, the proceeds of the sale shall be deposited with the treasurer of state and credited to the general fund of the state or other fund from which appropriated. There is appropriated from that same fund, with the prior approval of the executive council and in cooperation with the director, a sum equal to the proceeds so deposited and credited to the state agency to which the disposed real property belonged or by which it was used, for purposes of the state agency.

9. Subject to the selection procedures of section 12.30, employ financial consultants, banks, insurers, underwriters, accountants, attorneys, and other advisors or consultants necessary to implement the provisions of subsection 7.

10. Prepare annual status reports for all ongoing capital projects of all state agencies, as defined in section 8.3A, and submit the status reports to the legislative capital projects committee.

11. Call upon any state agency, as defined in section 8.3A, for assistance the director may require in performing the director's duties under subsection 10 regarding capital project status reports. All state agencies, upon the request of the director and with the approval of the director of the department of management, shall assist the director and are authorized to make available to the director any existing studies, surveys, plans, data, and other materials in the possession of the state agencies which are relevant to the director's duties.

12. In carrying out the requirements of section 64.6, purchase an individual or a blanket surety bond insuring the fidelity of state officers. The department may self-assume or self-insure fidelity exposures for state officials and employees. A state official is deemed to have furnished surety if the official has been covered by a program of insurance or self-insurance established by the department. To the extent possible, all bonded state employees shall be covered under one or more blanket bonds or position schedule bonds.

13. Review the management of state property loss exposures and state liability risk exposures for the capitol complex. Insurance coverage may include self-insurance or any type of insurance protection sold by insurers, including, but not limited to, full coverage, partial coverage, coinsurance, reinsurance, and deductible insurance coverage.

14. Establish a monument maintenance account in the state treasury under the control of the department. Funds for the maintenance of a state monument, whether received by gift, devise, bequest, or otherwise, shall be deposited in the account. Funds in the account shall be deposited in an interest-bearing account. Notwithstanding section 12C.7, interest earned on the account shall be deposited in the account and shall be used to maintain the designated monument. Any maintenance funds for a state monument held by the state and interest earned on the funds shall be used to maintain the designated monument. Notwithstanding section 8.33, funds in the monument maintenance account at the end of a fiscal year shall not revert to the general fund of the state.

2003 Acts, ch 145, §36

**8A.322 Buildings and grounds services public use.**

1. The director shall provide necessary lighting, fuel, and water services for the state buildings and grounds located at the seat of government, and for the state laboratories facility in Ankeny, except the buildings and grounds referred to in section 216B.3, subsection 6.
2. Except for buildings and grounds described in section 216B.3, subsection 6; section 2.43, unnumbered paragraph 1; and any buildings under the custody and control of the Iowa public employees' retirement system, the director shall assign office space at the capitol, other state buildings, and elsewhere in the city of Des Moines, and the state laboratories facility in Ankeny, for all executive and judicial state agencies. Assignments may be changed at any time. The various officers to whom rooms have been so assigned may control the same while the assignment to them is in force. Official apartments shall be used only for the purpose of conducting the business of the state. The term "*capitol*" or "*capitol building*" as used in the Code shall be descriptive of all buildings upon the capitol grounds. The capitol building itself is reserved for the operations of the general assembly, the governor, and the courts and the assignment and use of physical facilities for the general assembly shall be pursuant to section 2.43.
3. The director shall establish, publish, and enforce rules regulating and restricting the use by the public of the capitol buildings and grounds and of the state laboratories facility in Ankeny. The rules when established shall be posted in conspicuous places about the capitol buildings and grounds and the state laboratories facility, as applicable. Any person violating any rule, except a parking regulation, shall be guilty of a simple misdemeanor.

2003 Acts, ch 145, §37

#### **8A.323 Parking regulations.**

1. The director shall establish, publish, and enforce rules regulating, restricting, or prohibiting the use by state officials, state employees, and the public, of motor vehicle parking facilities at the state capitol complex and at the state laboratories facility in Ankeny. The assignment of legislative parking spaces shall be under the control of the legislative council. The rules established by the director may establish fines for violations and a procedure for payment of the fines. The director may order payment of a fine and enforce the order in the district court.
2. Motor vehicles parked in violation of the rules may be removed without the owner's or operator's consent and at the owner's or operator's expense. Motor vehicles removed and not claimed within thirty days of their removal or vehicles abandoned within the capitol grounds may be disposed of in accordance with the provisions of sections 321.85 through 321.91.
3. The parking rules established shall be posted in conspicuous places at the capitol complex and at the state laboratories facility in Ankeny, as applicable. Copies of the rules shall be made available to all state officials and employees and any other person who requests a copy of the rules.
4. All fines collected by the department shall be forwarded to the treasurer of state and deposited in the general fund of the state.

2003 Acts, ch 145, §38

#### **8A.324 Disposal of personal property.**

The director may dispose of personal property of the state under the director's control by any of the following means:

1. The director may dispose of unfit or unnecessary personal property by sale. Proceeds from the sale of personal property shall be deposited in the general fund of the state.

2. If the director concludes that the personal property has little or no value, the director may enter into an agreement with a not-for-profit organization or governmental agency to dispose of the personal property. The not-for-profit organization or governmental agency may charge the state agency in control of the property with the cost of removing and transporting the property. Title to the personal property shall transfer when the personal property is in the possession of the not-for-profit organization or governmental agency. If a governmental agency adds value to the property transferred to it and sells it, the proceeds from the sale shall be deposited with the governmental agency and not in the general fund of the state.

3. The director may dispose of presses, printing equipment, printing supplies, and other machinery or equipment used in the printing operation.

2003 Acts, ch 145, §39

#### **8A.325 Services and commodities accepted.**

The director may accept services, commodities, and surplus property and make provision for warehousing and distribution to various departments and governmental subdivisions of the state, and such other agencies, institutions, and authorized recipients within the state as may be from time to time designated in federal statutes and rules.

2003 Acts, ch 145, §40

#### **8A.326 Terrace Hill commission.**

1. The Terrace Hill commission is created consisting of nine persons, appointed by the governor, who are knowledgeable in business management and historic preservation and renovation. The governor shall appoint the chairperson. The terms of the commission members are for three years beginning on July 1 and ending on June 30.

2. The Terrace Hill commission may consult with the Terrace Hill society, Terrace Hill foundation, the executive and legislative branches of this state, and other persons interested in the property.

3. The Terrace Hill commission may enter into contracts, subject to this chapter, to execute its purposes.

4. The commission may adopt rules to administer the programs of the commission. The decision of the commission is final agency action under chapter 17A.

2003 Acts, ch 145, §41

#### **8A.327 Rent revolving fund created purpose.**

1. A rent revolving fund is created in the state treasury under the control of the department to be used by the department to pay the lease or rental costs of all buildings and office space necessary for the proper functioning of any state agency at the seat of state government as provided in section 8A.321, subsection 6, except that this fund shall not be used to pay the rental or lease costs of a state agency which has not received funds budgeted for rental or lease purposes.

2. The director shall pay the lease or rental fees to the renter or lessor and submit a monthly statement to each state agency for which building and office space is rented or leased. If the director pays the lease or rental fees on behalf of a state agency, the state agency's payment to the department shall be credited to the rent revolving fund established by this section. With the approval of the director, a state agency may pay the lease or rental cost directly to the person who is due the payment under the lease or rental agreement.

2003 Acts, ch 145, §42

### **8A.328 Recycling revolving fund.**

A recycling revolving fund is created within the state treasury under the control of the department. The fund shall consist of any moneys appropriated by the general assembly and any other moneys available to and obtained or accepted by the department from the federal government or private sources for placement in the fund. The assets of the fund shall be used by the department only for supporting recycling operations. Moneys in the fund shall be drawn upon the written requisition of the director or an authorized representative of the director. The fund is subject to an annual audit by the auditor of state. Section 8.33 does not apply to any moneys in the fund. Notwithstanding section 12C.7, subsection 2, interest or earnings on moneys deposited in the fund shall be credited to the fund.

2003 Acts, ch 145, §43

### **8A.329 Wastepaper recycling program.**

1. The department in accordance with recommendations made by the department of natural resources shall require all state agencies to establish an agency wastepaper recycling program. The director shall adopt rules which require a state agency to develop a program to ensure the recycling of the wastepaper generated by the agency. All state employees shall practice conservation of paper materials.
2. For the purposes of this section, "*agency wastepaper*" means wastepaper or wastepaper products generated by the agency.
3. The rules adopted by the director shall provide for the continuation of existing state agency contracts which provide for alternative waste management not including incineration or land burial of agency wastepaper.

2003 Acts, ch 145, §44

**8A.330 through 8A.340** Reserved.

### **8A.341 State printing duties.**

The director shall do all of the following as it relates to printing:

1. Provide general supervision of all matters pertaining to public printing, including the enforcement of contracts for printing, except as otherwise provided by law. The supervision shall include providing guidelines for the letting of contracts for printing, the manner, form, style, and quantity of public printing, and the specifications and advertisements for public printing. In addition, the director shall have charge of office equipment and supplies and of the stock, if any, required in connection with printing contracts.
2. If money is appropriated for this purpose, by November 1 of each year supply a report which contains the name, gender, county, or city of residence when possible, official title, salary received during the previous fiscal year, base salary as computed on July 1 of the current fiscal year, and traveling and subsistence expense of the personnel of each of the departments, boards, and commissions of the state government except personnel who receive an annual salary of less than one thousand dollars. The number of the personnel and the total amount received by them shall be shown for each department in the report. All employees who have drawn salaries, fees, or expense allowances from more than one department or subdivision shall be listed separately under the proper departmental heading. On the request of the director, the head of each department, board, or commission shall furnish the data covering that agency. The report shall be distributed upon request without charge to each caucus of the general assembly, the legislative services agency, the chief

clerk of the house of representatives, and the secretary of the senate. Copies of the report shall be made available to other persons in both print or electronic medium upon payment of a fee, which shall not exceed the cost of providing the copy of the report. Sections 22.2 through 22.6 apply to the report. All funds from the sale of the report shall be deposited in the printing revolving fund established in section 8A.345. Requests for print publications shall be handled only upon receipt of postage by the director.

3. Deposit receipts from the sale of presses, printing equipment, printing supplies, and other machinery or equipment used in the printing operation in the printing revolving fund established in section 8A.345.

2003 Acts, ch 35, §46, 49; 2003 Acts, ch 145, §45

## **Footnotes**

Style, publication, and distribution of Iowa Code and Code Supplement, Iowa Acts, Iowa administrative code, Iowa administrative bulletin, and Iowa court rules; §2.42, 2A.5, 2A.6

### **8A.342 Contracts with state institutions.**

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

2003 Acts, ch 145, §46

### **8A.343 Specifications and requirements.**

The director shall, from time to time, adopt and print specifications and requirements covering all matters relating to printing that are the subject of contracts.

2003 Acts, ch 145, §47

### **8A.344 Public printing bidding procedures.**

1. The director shall advertise for bids for public printing. Advertisements shall state where and how specifications and other necessary information may be obtained, the time during which the director will receive bids, and the day, hour, and place when bids will be publicly opened or accessed, and the manner by which the contracts will be awarded.
2. The director shall supply prospective bidders and others on request with the specifications and requirements, blank forms for bids, samples of printing so far as possible, and all other information pertaining to the subject.
3. The specifications shall be kept on file in the office of the director, open to public inspection, together with samples so far as possible, of the work to be done or the material to be furnished.
4. Bids submitted must be:
  - a. Secured in writing, by telephone, by facsimile, or in a format prescribed by the director as indicated in the bid specifications.

b. Signed by the bidder, or if a telephone or electronic bid, confirmed by the bidder in a manner prescribed by the director.

c. Submitted in a format prescribed by the director which reasonably assures the authenticity of the bid and the bidder's identity.

d. Submitted to the department as specified by the date and time established in the advertisements for bids.

5. When a bidder submits a bid to the department, the director may require the bidder to file a bid bond or a certified or cashier's check payable to the treasurer of state in an amount to be fixed in the bid specifications, either covering all classes or items or services, or separate certified or cashier's checks for each bid in case the bidder makes more than one bid. In lieu of a certified or cashier's check, the bidder may furnish a yearly bond in an amount to be established by the director. Certified or cashier's checks deposited by unsuccessful bidders, and by successful bidders when they have entered into the contract, shall be returned to them.

6. All bids shall be publicly opened or accessed and read and the contracts awarded in the manner designated in the bid specifications. In the award of a contract, due consideration shall be given to the price bid, mechanical and other equipment proposed to be used by the bidder, the financial responsibility of the bidder, the bidder's ability and experience in the performance of similar contracts, and any other factors that the department determines are relevant and that are included in the bid specifications.

7. The director shall have the right to reject any or all bids, and in case of rejection or because of failure of a bidder to enter into a contract, the director may advertise for and secure new bids.

8. When the director is satisfied that bidders have presented bids pursuant to an agreement, understanding, or combination to prevent free competition, the director shall reject all of them and readvertise for bids as in the first instance.

2003 Acts, ch 145, §48

#### **8A.345 Printing revolving fund.**

A revolving fund is created in the state treasury under the control of the department and may be used in making payments for supplying paper stock, offset printing, copy preparation, binding, distribution costs, and original payment of printing and binding claims for any of the state departments, bureaus, commissions, or institutions. All salaries and expenses properly chargeable to the fund shall be paid from the fund. The director may also use the fund for the purchase of replacement or additional equipment if a sufficient balance will remain in the fund to enable the continued operation of the printing operations of the department.

2003 Acts, ch 145, §49

#### **8A.346 through 8A.350 Reserved.**

#### **8A.351 Distribution of documents general provisions.**

If money is appropriated for this purpose, the director shall do all of the following:

1. The director shall require from officials or heads of departments mailing lists, or addressed labels or envelopes, for use in distribution of reports and documents. The director shall revise such lists, eliminating duplications and adding to the lists libraries, institutions, public officials, and persons having actual use for the material. The director shall arrange the lists so as to reduce to the minimum the postage or other cost for delivery. Requests for publications shall be handled only upon receipt of postage by the director from the requesting agency or department.

2. The director shall furnish the various officials and departments with copies of their reports needed for office use or to be distributed to persons requesting the reports. Requests for publications shall be handled only upon receipt of postage by the director.

3. The director may send additional copies of publications to other state officials, individuals, institutions, libraries, or societies that may request them. Requests for publications shall be handled only upon receipt of postage by the director.

2003 Acts, ch 145, §50

**8A.352 through 8A.360** Reserved.

**8A.361 Vehicle assignment authority in department.**

The department shall provide for the assignment of all state-owned motor vehicles to all state officers and employees, and to all state offices, departments, bureaus, and commissions, except the state department of transportation, institutions under the control of the state board of regents, the department for the blind, and any other agencies exempted by law.

2003 Acts, ch 145, §51

**8A.362 Fleet management powers and duties fuel economy requirements.**

1. The director may provide for the assignment to a state officer or employee or to a state agency, of one or more motor vehicles which may be required by the state officer or employee or state agency, after the state officer or employee or state agency has shown the necessity for such transportation. The director may assign a motor vehicle either for part-time or full-time use. The director may revoke the assignment at any time.

2. The director may cause all state-owned motor vehicles to be inspected periodically. Whenever the inspection reveals that repairs have been improperly made on the motor vehicle or that the operator is not giving the motor vehicle the proper care, the director shall report this fact to the head of the state agency to which the motor vehicle has been assigned, together with recommendation for improvement.

3. The director shall provide for a record system for the keeping of records of the total number of miles state-owned motor vehicles are driven and the per-mile cost of operation of each motor vehicle. Every state officer or employee shall keep a record book to be furnished by the director in which the officer or employee shall enter all purchases of gasoline, lubricating oil, grease, and other incidental expense in the operation of the motor vehicle assigned to the officer or employee, giving the quantity and price of each purchase, including the cost and nature of all repairs on the motor vehicle. Each operator of a state-owned motor vehicle shall promptly prepare a report at the end of each month on forms furnished by the director and forwarded to the director, giving the information the director may request in the report. Each month the director shall compile the costs and mileage of state-owned motor vehicles from the reports and keep a cost history for each motor vehicle and the costs shall be reduced to a cost-per-mile basis for each motor vehicle. The director shall call to the attention of an elected official or the head of any state agency to which a motor vehicle has been assigned any evidence of the mishandling or misuse of a state-owned motor vehicle which is called to the director's attention.

A motor vehicle operated under this subsection shall not operate on gasoline other than gasoline blended with at least ten percent ethanol, unless under emergency circumstances. A state-issued credit card used to purchase gasoline shall not be valid to purchase gasoline other than gasoline blended with at least ten percent ethanol, if commercially available. The motor vehicle shall also be affixed with a brightly visible sticker which notifies the traveling public that the motor vehicle is being operated on gasoline blended with ethanol.

However, the sticker is not required to be affixed to an unmarked vehicle used for purposes of providing law enforcement or security.

4. *a.* The director shall provide for the purchase of all motor vehicles for all branches of the state government, except the state department of transportation, institutions under the control of the state board of regents, the department for the blind, and any other state agency exempted by law. The director shall purchase new vehicles in accordance with competitive bidding procedures for items or services as provided in this subchapter. The director may purchase used or preowned vehicles at governmental or dealer auctions if the purchase is determined to be in the best interests of the state.

*b.* The director, and any other state agency, which for purposes of this subsection includes but is not limited to community colleges and institutions under the control of the state board of regents, or local governmental subdivisions purchasing new motor vehicles, shall purchase new passenger vehicles and light trucks so that the average fuel efficiency for the fleet of new passenger vehicles and light trucks purchased in that year equals or exceeds the average fuel economy standard for the vehicles' model year as established by the United States secretary of transportation under 15 U.S.C. § 2002. This paragraph does not apply to vehicles purchased for law enforcement purposes or used for off-road maintenance work, or work vehicles used to pull loaded trailers.

*c.* Not later than February 15 of each year, the director shall report compliance with the corporate average fuel economy standards published by the United States secretary of transportation for new motor vehicles, other than motor vehicles purchased by the state department of transportation, institutions under the control of the state board of regents, the department for the blind, and any other state agency exempted from the requirements of this subsection. The report of compliance shall classify the vehicles purchased for the current vehicle model year using the following categories: passenger automobiles, enforcement automobiles, vans, and light trucks. The director shall deliver a copy of the report to the department of natural resources. As used in this paragraph, "*corporate average fuel economy*" means the corporate average fuel economy as defined in 49 C.F.R. § 533.5.

*d.* The director shall assign motor vehicles available for use to maximize the average passenger miles per gallon of motor vehicle fuel consumed. In assigning motor vehicles, the director shall consider standards established by the director, which may include but are not limited to the number of passengers traveling to a destination, the fuel economy of and passenger capacity of vehicles available for assignment, and any other relevant information, to assure assignment of the most energy-efficient vehicle or combination of vehicles for a trip from those vehicles available for assignment. The standards shall not apply to special work vehicles and law enforcement vehicles. The standards shall apply to the following agencies:

(1) State department of transportation.

(2) Institutions under the control of the state board of regents.

(3) Department for the blind.

(4) Any other state agency exempted from obtaining vehicles for use through the department.

*e.* As used in paragraph "*d*", "*fuel economy*" means the average number of miles traveled by an automobile per gallon of gasoline consumed as determined by the United States environmental protection agency administrator in accordance with 26 U.S.C. § 4064(c).

5. Of all new passenger vehicles and light pickup trucks purchased by the director, a minimum of ten percent of all such vehicles and trucks purchased shall be equipped with engines which utilize alternative methods of propulsion including but not limited to any of the following:

a. A flexible fuel, which is any of the following:

(1) A fuel blended with not more than fifteen percent gasoline and at least eighty-five percent ethanol.

(2) A fuel which is a mixture of diesel fuel and processed soybean oil. At least twenty percent of the mixed fuel by volume must be processed soybean oil.

(3) A renewable fuel approved by the office of renewable fuels and coproducts pursuant to section 159A.3.

b. Compressed or liquefied natural gas.

c. Propane gas.

d. Solar energy.

e. Electricity.

This subsection does not apply to vehicles and trucks purchased and directly used for law enforcement or purchased and used for off-road maintenance work or to pull loaded trailers.

6. All used motor vehicles turned in to the director shall be disposed of by public auction, and the sales shall be advertised in a newspaper of general circulation one week in advance of sale, and the receipts from the sale shall be deposited in the depreciation fund to the credit of the state agency turning in the vehicle; except that, in the case of a used motor vehicle of special design, the director may, instead of selling it at public auction, authorize the motor vehicle to be traded for another vehicle of similar design. If a vehicle sustains damage and the cost to repair exceeds the wholesale value of the vehicle, the director may dispose of the motor vehicle by obtaining two or more written salvage bids and the vehicle shall be sold to the highest responsible bidder.

7. The director may authorize the establishment of motor pools consisting of a number of state-owned motor vehicles under the director's supervision. The director may store the motor vehicles in a public or private garage. If the director establishes a motor pool, any state officer or employee desiring the use of a state-owned motor vehicle on state business shall notify the director of the need for a vehicle within a reasonable time prior to actual use of the motor vehicle. The director may assign a motor vehicle from the motor pool to the state officer or employee. If two or more state officers or employees desire the use of a state-owned motor vehicle for a trip to the same destination for the same length of time, the director may assign one vehicle to make the trip.

8. The director shall require that a sign be placed on each state-owned motor vehicle in a conspicuous place which indicates its ownership by the state. This requirement shall not apply to motor vehicles requested to be exempt by the director or by the commissioner of public safety. All state-owned motor vehicles shall display registration plates bearing the word "*official*" except motor vehicles requested to be furnished with ordinary plates by the director or by the commissioner of public safety pursuant to section 321.19. The director shall keep an accurate record of the registration plates used on all state-owned motor vehicles.

9. All fuel used in state-owned automobiles shall be purchased at cost from the various installations or garages of the state department of transportation, state board of regents, department of human services, or state motor pools throughout the state, unless the state-owned sources for the purchase of fuel are not reasonably accessible. If the director determines that state-owned sources for the purchase of fuel are not reasonably accessible, the director shall authorize the purchase of fuel from other sources. The director may prescribe a manner, other than the use of the revolving fund, in which the purchase of fuel from state-owned sources is charged to the state agency responsible for the use of the motor vehicle. The director shall prescribe the manner in which oil and other normal motor vehicle maintenance for state-owned motor

vehicles may be purchased from private sources, if they cannot be reasonably obtained from a state motor pool. The director may advertise for bids and award contracts in accordance with competitive bidding procedures for items and services as provided in this subchapter for furnishing fuel, oil, grease, and vehicle replacement parts for all state-owned motor vehicles. The director and other state agencies, when advertising for bids for gasoline, shall also seek bids for ethanol blended gasoline.

2003 Acts, ch 145, §52

## **Footnotes**

Marking vehicles generally, §721.8

"Official" plates, §321.19, 321.170

### **8A.363 Private use prohibited rate for state business.**

1. A state officer or employee shall not use a state-owned motor vehicle for personal private use. A state officer or employee shall not be compensated for driving a privately owned motor vehicle unless it is done on state business with the approval of the director. In that case the state officer or employee shall receive an amount to be determined by the director. The amount shall not exceed the maximum allowable under the federal internal revenue service rules per mile, notwithstanding established mileage requirements or depreciation allowances. However, the director may authorize private motor vehicle rates in excess of the rate allowed under the federal internal revenue service rules for state business use of substantially modified or specially equipped privately owned vehicles required by persons with disabilities. A statutory provision establishing reimbursement for necessary mileage, travel, or actual expenses to a state officer falls under the private motor vehicle mileage rate limitation provided in this section unless specifically provided otherwise. Any peace officer employed by the state as defined in section 801.4 who is required to use a private motor vehicle in the performance of official duties shall receive the private vehicle mileage rate at the rate provided in this section. However, the director may delegate authority to officials of the state, and department heads, for the use of private vehicles on state business up to a yearly mileage figure established by the director. If a state motor vehicle has been assigned to a state officer or employee, the officer or employee shall not collect mileage for the use of a privately owned motor vehicle unless the state motor vehicle assigned is not useable.

2. This section does not apply to any of the following:

*a.* Officials and employees of the state whose mileage is paid other than by a state agency.

*b.* Elected officers of the state.

*c.* Judicial officers or court employees.

*d.* Members and employees of the general assembly who shall be governed by policies relating to motor vehicle travel, including but not limited to reimbursement for expenses, if such policies are otherwise established by the general assembly.

2003 Acts, ch 145, §53

## **Footnotes**

See also §2.10, 70A.9, 602.1509

### **8A.364 Fleet management revolving fund replenishment.**

1. A fleet management revolving fund is created in the state treasury under the control of the department. There is appropriated from moneys in the state treasury not otherwise appropriated the sum of twenty-five thousand dollars to the revolving fund. All purchases of gasoline, oil, tires, repairs, and all other general expenses incurred in the operation of state-owned motor vehicles, and all salaries and expenses of employees providing fleet management services shall be paid from this fund.

2. At the end of each month the director shall render a statement to each state department or agency for the actual cost of operation of all motor vehicles assigned to such department or agency, together with a fair proportion of the administrative costs for providing fleet management services during such month, as determined by the director, all subject to review by the executive council upon complaint of any state department or agency adversely affected. Such expenses shall be paid by the state departments or agencies in the same manner as other expenses of such department are paid, and when such expenses are paid, such sums shall be credited to the fleet management revolving fund. If any surplus accrues to the revolving fund in excess of twenty-five thousand dollars for which there is no anticipated need or use, the governor may order such surplus transferred to the general fund of the state.

2003 Acts, ch 145, §54

### **8A.365 Vehicle replacement depreciation fund.**

1. The director shall maintain a depreciation fund for the purchase of replacement motor vehicles and additions to the fleet. The director's records shall show the total funds deposited by and credited to each department or agency. At the end of each month, the director shall render a statement to each state department or agency for additions to the fleet and total depreciation credited to that department or agency. Such depreciation expense shall be paid by the state departments or agencies in the same manner as other expenses are paid, and shall be deposited in the depreciation fund to the credit of the department or agency. The funds credited to each department or agency shall remain the property of the department or agency. However, at the end of each biennium, the director shall cause to revert to the fund from which it accumulated any unassigned depreciation.

2. The department of corrections is not obligated to pay the depreciation expense otherwise required by this section.

2003 Acts, ch 145, §55

### **8A.366 Violations withdrawing use of vehicle.**

If any state officer or employee violates any of the provisions of sections 8A.361 through 8A.365, the director may withdraw the assignment of any state-owned motor vehicle to any such state officer or employee.

2003 Acts, ch 145, §56

### **8A.367 through 8A.400 Reserved.**

### **8A.401 Definitions.**

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

1. *"Appointing authority"* means the chairperson or person in charge of any state agency including, but not limited to, boards, bureaus, commissions, and departments, or an employee designated to act for an

appointing authority.

2. "*Merit system*" means the merit system established under this subchapter.

2003 Acts, ch 145, §57

#### **8A.402 State human resource management responsibilities.**

1. The department is the central agency responsible for state human resource management, including the following:

*a.* Policy and program development, workforce planning, and research.

*b.* Employment activities and transactions, including recruitment, examination, and certification of personnel seeking employment or promotion.

*c.* Compensation and benefits, including position classification, wages and salaries, and employee benefits. Employee benefits include, but are not limited to, group medical, dental, life, and long-term disability insurance, workers' compensation, unemployment benefits, sick leave, deferred compensation, holidays and vacations, tuition reimbursement, and educational leaves.

*d.* Equal employment opportunity, affirmative action, and workforce diversity programs.

*e.* Education, training, and workforce development programs.

*f.* Personnel records and administration, including the audit of all personnel-related documents.

*g.* Employment relations, including the negotiation and administration of collective bargaining agreements on behalf of the executive branch of the state and its departments and agencies as provided in chapter 20. However, the state board of regents, for the purposes of implementing and administering collective bargaining pursuant to chapter 20, shall act as the exclusive representative of the state with respect to its faculty, scientific, and other professional staff.

*h.* The coordination and management of the state's human resource information system, except as otherwise required for those employees governed by chapter 262.

2. The department, as it relates to the human resources of state government, shall do the following:

*a.* Establish and maintain a list of all employees in the executive branch of state government and set forth, as to each employee, the class title, pay, status, and other pertinent data. For employees governed by chapter 262, the director shall work collaboratively with the state board of regents to collect such information.

*b.* Foster and develop, in cooperation with appointing authorities and others, programs for the improvement of employee effectiveness, including training, safety, health, counseling, and welfare.

*c.* Encourage and exercise leadership in the development of effective personnel administration within the several state agencies, and to make available the facilities of the department to this end.

*d.* The director may delegate any or all aspects of the recruitment, examination, and selection processes to an agency in the executive branch upon request by that agency. The director shall oversee all activities delegated to that agency.

*e.* Utilize appropriate persons, including officers and employees in the executive branch, to assist in the

recruitment and examination of applicants for employment. These officers and employees are not entitled to extra pay for their services, but shall be paid their necessary traveling and other expenses.

3. The human resource management powers and duties of the department do not extend to the legislative branch or the judicial branch of state government, except for functions related to administering compensation and benefit programs.

2003 Acts, ch 145, §58

**8A.403 through 8A.410 Reserved.**

**8A.411 Merit system established collective bargaining applicability.**

1. The general purpose of this subchapter is to establish for the state of Iowa a system of human resource administration based on merit principles and scientific methods to govern the appointment, compensation, promotion, welfare, development, transfer, layoff, removal, and discipline of its civil employees, and other incidents of state employment.

2. It is also the purpose of this subchapter to promote the coordination of personnel rules and policies with collective bargaining agreements negotiated under chapter 20.

3. All appointments and promotions to positions covered by the state merit system shall be made solely on the basis of merit and fitness, to be ascertained by examinations or other appropriate screening methods, except as otherwise specified in this subchapter.

4. Provisions of this subchapter pertaining to qualifications, examination, certification, probation, and just cause apply only to employees covered by the merit system.

2003 Acts, ch 145, §59

**8A.412 Merit system applicability exceptions.**

The merit system shall apply to all employees of the state and to all positions in state government now existing or hereafter established. In addition, the director shall negotiate an agreement with the director of the department for the blind concerning the applicability of the merit system to the professional employees of the department for the blind. However, the merit system shall not apply to the following:

1. The general assembly, employees of the general assembly, other officers elected by popular vote, and persons appointed to fill vacancies in elective offices.

2. All judicial officers and court employees.

3. The staff of the governor.

4. All board members and commissioners whose appointments are provided for by the Code.

5. All presidents, deans, directors, teachers, professional and scientific personnel, and student employees under the jurisdiction of the state board of regents. The state board of regents shall adopt rules not inconsistent with the objectives of this chapter for all of its employees not cited specifically in this subsection. The rules are subject to approval by the director. If at any time the director determines that the state board of regents merit system rules do not comply with the intent of this chapter, the director may direct the board to correct the rules. The rules of the board are not in compliance until the corrections are made.

6. All appointments which are by law made by the governor.
7. All personnel of the armed services under state jurisdiction.
8. Persons who are paid a fee on a contract-for-services basis.
9. Seasonal employees appointed during a state agency's designated six-month seasonal employment period during the same annual twelve-month period, as approved by the director.
10. Residents, patients, or inmates working in state institutions, or persons on parole working in work experience programs.
11. Professional employees under the supervision of the attorney general, the state public defender, the auditor of state, the treasurer of state, and the public employment relations board. However, employees of the consumer advocate division of the department of justice, other than the consumer advocate, are subject to the merit system.
12. Production and engineering personnel under the jurisdiction of the Iowa public broadcasting board.
13. Members of the Iowa state patrol and other peace officers employed by the department of public safety. The commissioner of public safety shall adopt rules not inconsistent with the objectives of this subchapter for the persons described in this subsection.
14. Professional employees of the arts division of the department of cultural affairs.
15. The chief deputy administrative officer and each division administrator of each state agency not otherwise specifically provided for in this section, and physicians not otherwise specifically provided for in this section. As used in this subsection, "*division administrator*" means a principal administrative or policymaking position designated by a chief administrative officer and approved by the director or as specified by law.
16. All confidential employees.
17. Other employees specifically exempted by law.
18. The administrator and the deputy administrator of the credit union division of the department of commerce, all members of the credit union review board, and all employees of the credit union division.
19. The superintendent and the deputy superintendent of the banking division of the department of commerce, all members of the state banking board, and all employees of the banking division.
20. Chief deputy industrial commissioners.
21. The appointee serving as the coordinator of the office of renewable fuels and coproducts, as provided in section 159A.3.
22. All employees of the Iowa state fair authority.
23. Up to six nonprofessional employees designated at the discretion of each statewide elected official.
24. The position classifications of employees of statewide elected officials that were exempt from the merit system as of June 30, 1994, shall remain exempt and any employees subsequently hired to fill any exempt position vacancies shall be classified as exempt employees.

## Footnotes

Equal opportunity and special appointments; §19B.2

### **8A.413 State human resource management rules.**

The department shall adopt rules for the administration of this subchapter pursuant to chapter 17A. Rulemaking shall be carried out with due regard to the terms of collective bargaining agreements. A rule shall not supersede a provision of a collective bargaining agreement negotiated under chapter 20. The rules shall provide:

1. For the preparation, maintenance, and revision of a job classification plan that encompasses each job in the executive branch, excluding job classifications under the state board of regents, based upon assigned duties and responsibilities, so that the same general qualifications may reasonably be required for and the same pay plan may be equitably applied to all jobs in the same job classification. The director shall classify the position of every employee in the executive branch, excluding employees of the state board of regents, into one of the classes in the plan. An appointing authority or employee adversely affected by a classification or reclassification decision may file an appeal with the director. Appeals of a classification or reclassification decision shall be exempt from the provisions of section 17A.11 and shall be heard by a committee appointed by the director. The classification or reclassification of a position that would cause the expenditure of additional salary funds shall not become effective if the expenditure of funds would be in excess of the total amount budgeted for the department of the appointing authority until budgetary approval has been obtained from the director of the department of management.

When the public interest requires a decrease or increase of employees in any position or type of employment not otherwise provided by law, or the creation or abolishment of any position or type of employment, the director, acting in good faith, shall so notify the governor. Thereafter, the position or type of employment shall stand abolished or created and the number of employees therein reduced or increased.

2. For pay plans covering all employees in the executive branch, excluding employees of the state board of regents, after consultation with the governor and appointing authorities, and consistent with the terms of collective bargaining agreements negotiated under chapter 20.

3. For examinations to determine the relative fitness of applicants for employment. Such examinations shall be practical in character and shall relate to such matters as will fairly assess the ability of the applicant to discharge the duties of the position to which appointment is sought.

Where the Code of Iowa establishes certification, registration, or licensing provisions, such documents shall be considered prima facie evidence of basic skills accomplishment and such persons shall be exempt from further basic skills examination.

Vacancies shall be announced publicly at least ten days in advance of the date fixed for the filing of applications for the vacancies, and shall be advertised through the communications media. The director may, however, in the director's discretion, continue to receive applications and examine candidates for a period adequate to assure a sufficient number of eligibles to meet the needs of the system, and may add the names of successful candidates to existing eligible lists.

4. For promotions which shall give appropriate consideration to the applicant's qualifications, record of performance, and conduct. A promotion means a change in the status of an employee from a position in one class to a position in another class having a higher pay grade.

5. For the establishment of lists for appointment and promotion, upon which lists shall be placed the names of successful candidates.
6. For the rejection of applicants who fail to meet reasonable requirements.
7. For the appointment by the appointing authority of a person on the appropriate list to fill a vacancy.
8. For a probation period of six months, excluding educational or training leave, before appointment may be made complete, and during which period a probationer may be discharged or reduced in class or pay. If the employee's services are unsatisfactory, the employee shall be dropped from the payroll on or before the expiration of the probation period. If satisfactory, the appointment shall be deemed permanent. The determination of the appointing authority shall be final and conclusive.
9. For temporary employment for not more than seven hundred eighty hours in a fiscal year.
10. For provisional employment when there is no appropriate list available. Such provisional employment shall not continue longer than one hundred eighty calendar days.
11. For transfer from a position in one state agency to a similar position in the same state agency or another state agency involving similar qualifications, duties, responsibilities, and salary ranges. Whenever an employee transfers or is transferred from one state agency to another state agency, the employee's seniority rights, any accumulated sick leave, and accumulated vacation time, as provided in the law, shall be transferred to the new place of employment and credited to the employee. Employees who are subject to contracts negotiated under chapter 20 which include transfer provisions shall be governed by the contract provisions.
12. For reinstatement of persons who have attained permanent status and who resign in good standing or who are laid off from their positions without fault or delinquency on their part.
13. For establishing in cooperation with the appointing authorities a performance management system for all employees in the executive branch, excluding employees of the state board of regents, which shall be considered in determining salary increases; as a factor in promotions; as a factor in determining the order of layoffs and in reinstatement; as a factor in demotions, discharges, and transfers; and for the regular evaluation, at least annually, of the qualifications and performance of those employees.
14. For layoffs by reason of lack of funds or work, or reorganization, and for the recall of employees so laid off, giving consideration in layoffs to the employee's performance record and length of service. An employee who has been laid off may be on a recall list for one year, which list shall be exhausted by the organizational unit enforcing the layoff before selection of an employee may be made from the promotional or nonpromotional list in the employee's classification. Employees who are subject to contracts negotiated under chapter 20 which include layoff and recall provisions shall be governed by the contract provisions.
15. For imposition, as a disciplinary measure, of a suspension from service without pay.
16. For discharge, suspension, or reduction in job classification or pay grade for any of the following causes: failure to perform assigned duties; inadequacy in performing assigned duties; negligence; inefficiency; incompetence; insubordination; unrehabilitated alcoholism or narcotics addiction; dishonesty; unlawful discrimination; failure to maintain a license, certificate, or qualification necessary for a job classification or position; any act or conduct which adversely affects the employee's performance or the employing agency; or any other good cause for discharge, suspension, or reduction. The person discharged, suspended, or reduced shall be given a written statement of the reasons for the discharge, suspension, or reduction within twenty-four hours after the discharge, suspension, or reduction. All persons concerned with the administration of this subchapter shall use their best efforts to ensure that this subchapter and the rules

adopted pursuant to this subchapter shall not be a means of protecting or retaining unqualified or unsatisfactory employees, and shall discharge, suspend, or reduce in job classification or pay grade all employees who should be discharged, suspended, or reduced for any of the causes stated in this subsection.

17. For establishment of a uniform plan for resolving employee grievances and complaints. Employees who are subject to contracts negotiated under chapter 20 which include grievance and complaint provisions shall be governed by the contract provisions.

18. For attendance regulations, and special leaves of absence, with or without pay, or reduced pay, in the various classes of positions in the executive branch, excluding positions under the state board of regents. Employees who are subject to contracts negotiated under chapter 20 which include leave of absence provisions shall be governed by the contract provisions. Annual sick leave and vacation time shall be granted in accordance with section 70A.1.

19. For the development and operation of programs to improve the work effectiveness and morale of employees in the executive branch, excluding employees of the state board of regents, including training, safety, health, welfare, counseling, recreation, and employee relations.

20. Notwithstanding any provisions to the contrary, a rule or regulation shall not be adopted by the department which would deprive the state of Iowa, or any of its agencies or institutions, of federal grants or other forms of financial assistance.

21. For veterans preference through a provision that veterans, as defined in section 35.1, shall have five points added to the grade or score attained in qualifying examinations for appointment to jobs.

Veterans who have a service-connected disability or are receiving compensation, disability benefits, or pension under laws administered by the veterans administration shall have ten points added to the grades attained in qualifying examinations. A veteran who has been awarded the purple heart for disabilities incurred in action shall be considered to have a service-connected disability.

22. For acceptance of the qualifications, requirements, regulations, and general provisions established under other sections of the Code pertaining to professional registration, certification, and licensing.

2003 Acts, ch 145, §61

#### **8A.414 Experimental research projects.**

The director may conduct experimental or research personnel-related projects of limited duration designed to improve the quality of the employment system. The provisions of section 8A.413 or administrative rules adopted pursuant to that section are waived for the purposes of such projects. Projects adopted under this authority shall not violate existing collective bargaining agreements. Any projects that relate to issues covered by such agreements or issues that are mandatory subjects of collective bargaining are subject to negotiations as applicable. The director shall notify the chairpersons of the standing committees on appropriations of the senate and the house of representatives and the chairpersons of the appropriate subcommittees of those committees of the proposed projects. The notice from the director shall include the purpose of the project, a description of the project, and how the project will be evaluated. Chairpersons notified shall be given at least two weeks to review and comment on the proposal before the project is implemented. The director shall report the results of the experimental research projects conducted in the preceding fiscal year to the legislative council by September 30 of each year.

2003 Acts, ch 145, §62

#### **8A.415 Grievances and discipline resolution.**

1. *Grievances.* An employee, except an employee covered by a collective bargaining agreement which provides otherwise, who has exhausted the available agency steps in the uniform grievance procedure provided for in the department rules may, within seven calendar days following the date a decision was received or should have been received at the second step of the grievance procedure, file the grievance at the third step with the director. The director shall respond within thirty calendar days following receipt of the third step grievance.

If not satisfied, the employee may, within thirty calendar days following the director's response, file an appeal with the public employment relations board. The hearing shall be conducted in accordance with the rules of the public employment relations board and the Iowa administrative procedure Act, chapter 17A. Decisions rendered shall be based upon a standard of substantial compliance with this subchapter and the rules of the department. Decisions by the public employment relations board constitute final agency action.

For purposes of this subsection, "*uniform grievance procedure*" does not include procedures for discipline and discharge.

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

If not satisfied, the employee may, within thirty calendar days following the director's response, file an appeal with the public employment relations board. The employee has the right to a hearing closed to the public, unless a public hearing is requested by the employee. The hearing shall otherwise be conducted in accordance with the rules of the public employment relations board and the Iowa administrative procedure Act, chapter 17A. If the public employment relations board finds that the action taken by the appointing authority was for political, religious, racial, national origin, sex, age, or other reasons not constituting just cause, the employee may be reinstated without loss of pay or benefits for the elapsed period, or the public employment relations board may provide other appropriate remedies. Decisions by the public employment relations board constitute final agency action.

2003 Acts, ch 145, §63

#### **8A.416 Discrimination, political activity, use of official influence prohibited.**

1. A person shall not be appointed or promoted to, or demoted or discharged from, any position in the merit system, or in any way favored or discriminated against with respect to employment in the merit system because of the person's political or religious opinions or affiliations or race or national origin or sex, or age.

2. A person holding a position in the classified service shall not, during the person's working hours or when performing the person's duties or when using state equipment or at any time on state property, take part in any way in soliciting any contribution for any political party or any person seeking political office, and such employee shall not engage in any political activity that will impair the employee's efficiency during working hours or cause the employee to be tardy or absent from work. This section does not preclude any employee from holding any office for which no pay is received or any office for which only token pay is received.

3. A person shall not seek or attempt to use any political endorsement in connection with any appointment to a position in the merit system.

4. A person shall not use or promise to use, directly or indirectly, any official authority or influence, whether possessed or anticipated, to secure or attempt to secure for any person an appointment or advantage in appointment to a position in the merit system, or an increase in pay or other advantage in employment in any

such position, for the purpose of influencing the vote or political action of any person or for any consideration.

5. An employee shall not use the employee's official authority or influence for the purpose of interfering with an election or affecting the results thereof.

6. Any officer or employee who violates this section shall be subject to suspension, dismissal, or demotion subject to the right of appeal provided in this subchapter.

7. The director shall adopt any rules necessary for further restricting political activities of employees in the executive branch, but only to the extent necessary to comply with federal standards. Employees retain the right to vote as they please and to express their opinions on all subjects.

2003 Acts, ch 145, §64

## **Footnotes**

See also chapters 39A and 721

### **8A.417 Prohibited actions.**

1. A person shall not make any false statement, certificate, mark, rating, or report with regard to any examination or appointment made under this subchapter or in any manner commit or attempt to commit any fraud preventing the impartial execution of this subchapter and the rules adopted pursuant to this subchapter.

2. A person shall not, directly or indirectly, give, render, pay, offer, solicit, or accept any money, service, or other valuable consideration for or on account of any appointment, proposed appointment, promotion, or proposed promotion to, or any advantage in, a position in the merit system.

3. An employee of the department or any other person shall not defeat, deceive, or obstruct any person in the person's right to examination or appointment under this subchapter, or furnish to any person any special or secret information for the purpose of affecting the rights or prospects of any person with respect to employment in the merit system.

4. A person shall not discharge an employee from or take or fail to take action regarding an employee's appointment or proposed appointment to, promotion or proposed promotion to, or any advantage in, a position in a merit system administered by, or subject to approval of, the director as a reprisal for a failure by that employee to inform the person that the employee made a disclosure of information permitted by this section, or for a disclosure of any information by that employee to a member or employee of the general assembly, or for a disclosure of information to any other public official or law enforcement agency if the employee reasonably believes the information evidences a violation of law or rule, mismanagement, a gross abuse of funds, an abuse of authority, or a substantial and specific danger to public health or safety. However, an employee may be required to inform the person that the employee made a disclosure of information permitted by this section if the employee represented that the disclosure was the official position of the employee's immediate supervisor or employer. This subsection does not apply if the disclosure of the information is prohibited by statute.

2003 Acts, ch 145, §65

### **8A.418 Federal programs exemption exceptions penalty.**

1. Notwithstanding the provisions of this subchapter to the contrary, a person employed under a temporary,

emergency employment utilization program funded by the federal government which program does not exceed one year and which program is not subject to merit system standards by federal law, shall be exempt from this subchapter except as provided in this section.

2. A person employed as provided in this section shall be subject to the provisions of section 8A.416 relating to political activity and the civil penalties contained in such section and, consistent with subsection 1, the provisions of section 8A.417 relating to prohibited actions.

3. A person violating this section shall be subject to the penalty provided for in section 8A.458.

2003 Acts, ch 145, §66

**8A.419 through 8A.430** Reserved.

**8A.431 Iowa management training system training revolving fund.**

1. The department shall establish and administer an Iowa management training system for the state.

2. A training revolving fund is created in the state treasury under the control of the department. The moneys credited to the fund shall be used for the purpose of paying actual and necessary expenses incurred by the department in administering the training system. All fees, grants, or specific appropriations for this purpose shall be credited to the fund. The fees for the training system courses shall be set by the director to cover the costs of course development, training materials, facilities and equipment, professional instructors, and administration. The fees shall be paid to the department by the state agency sending the employees for training and the payment shall be credited to the training revolving fund. Notwithstanding section 8.33, moneys in the revolving fund shall not revert. Notwithstanding section 12C.7, subsection 2, interest or earnings on moneys deposited in the fund shall be credited to the fund.

2003 Acts, ch 145, §67

**8A.432 Combined charitable campaign program, fees, revolving fund.**

1. The department shall establish and administer a combined charitable campaign program for state employees.

2. A combined charitable campaign revolving fund is created in the state treasury under the control of the department. The moneys credited to the fund shall be used for the purpose of paying actual and necessary expenses incurred by the department in administering the program. Administrative expenses shall not exceed five percent of the contributions pledged the previous year. All fees, grants, or specific appropriations for this purpose shall be credited to the fund. The fees for the program shall be set by the director to cover only the cost of administration and materials and shall not cover salaries of state employees involved in the administration of the program. The fees shall be paid to the department from the voluntary employee contributions and the payment shall be credited to the revolving fund. Notwithstanding section 8.33, any moneys in the fund shall not revert. Notwithstanding section 12C.7, subsection 2, interest or earnings on moneys deposited in the fund shall be credited to the fund.

2003 Acts, ch 145, §68

**8A.433 Deferred compensation plan.**

The department shall make available to eligible state employees the option of utilizing mutual funds as an investment alternative to the state's deferred compensation plan established under section 509A.12. Participating employees shall, to the extent permitted by law, be allowed to transfer moneys deferred under

the plan to a mutual fund offered pursuant to section 509A.12. The department may make the deferred compensation plan established pursuant to this section available to governmental employees of a public entity authorized to establish a deferred compensation program pursuant to section 509A.12.

2003 Acts, ch 145, §69

**8A.434 Iowa state employee deferred compensation trust fund.**

1. A separate, special Iowa state employee deferred compensation trust fund is created in the state treasury under the control of the department. The fund shall consist of all moneys deposited in the fund pursuant to this section, any other assets that must be held in trust for the exclusive benefit of participants in the state's deferred compensation program as required by section 457 of the federal Internal Revenue Code, and interest and earnings thereon, and shall be used for the exclusive benefit of participants in a deferred compensation program established by the state under section 509A.12.

2. The director is the trustee of the fund and shall administer the fund. Any loss to the fund shall be charged against the fund and the director shall not be personally liable for such loss. In addition, the director is the trustee of any trusts referenced in section 457(g) of the federal Internal Revenue Code. Any loss to the trusts shall be charged against the trusts and the director shall not be personally liable for such loss.

3. Any compensation or portion of compensation reduced by a participant in conjunction with a deferred compensation program established by the state under section 509A.12 and any earnings or income thereon shall be held in trust and used for the exclusive benefit of the participant or the participant's beneficiary as provided by section 457 of the federal Internal Revenue Code.

4. For purposes of this section, custodial accounts, annuity contracts, and any other contracts referenced in section 457(g) of the federal Internal Revenue Code shall be treated as trusts for purposes of section 457 of the federal Internal Revenue Code.

5. Moneys in the fund are not subject to section 8.33. Notwithstanding section 12C.7, subsection 2, interest or earnings on moneys in the fund shall be credited to the fund.

2003 Acts, ch 145, §70

**8A.435 State employee deferred compensation match trust fund.**

1. A separate, special Iowa state employee deferred compensation match trust fund is created in the state treasury under the control of the department. The trust fund shall consist of all moneys deposited in the fund, and other assets that must be held in trust for the exclusive benefit of participants in the state's deferred compensation match program as required by section 401(a) of the federal Internal Revenue Code, and interest and earnings thereon, and shall be used for the exclusive benefit of participants and their beneficiaries in a deferred compensation match program established by the state under section 509A.12.

2. The director is the trustee of the fund and shall administer the fund. Any loss to the fund shall be charged against the trust and the director shall not be personally liable for such loss.

3. Moneys in the fund are not subject to section 8.33. Notwithstanding section 12C.7, subsection 2, interest or earnings on moneys in the fund shall be credited to the fund.

2003 Acts, ch 145, §71

**8A.436 State employee dependent care spending account trust fund.**

1. A separate, special Iowa state employee dependent care spending account trust fund is created in the state treasury under the control of the department. The trust fund consists of all moneys, including monthly administrative charges paid by a state department or agency as authorized by section 8A.451, held in trust for the exclusive benefit of participants in the state's dependent care spending account plan. Moneys in the fund are not subject to section 8.33. Notwithstanding section 12C.7, interest and earnings from moneys in the trust fund shall be credited to the trust fund and shall be used exclusively for the benefit of plan participants.

2. The director shall serve as trustee of the trust fund and shall administer the fund as required by sections 125 and 129 of the federal Internal Revenue Code. Any loss to the fund shall be charged against the fund and the director shall not be personally liable for such loss. The director has the authority to direct expenditures as deemed appropriate to the exclusive benefit of the plan participants.

2003 Acts, ch 145, §72

#### **8A.437 State employee health flexible spending account trust fund.**

1. The director shall establish for state employees a health flexible spending account plan which offers multiple benefits to state employees. The state's health flexible spending account plan shall be established to meet the conditions of section 125 of the Internal Revenue Code of 1986.

2. A separate, special Iowa state employee health flexible spending account trust fund is created in the state treasury under the control of the department. The trust fund consists of all moneys appropriated to the fund, all monthly administrative charges paid by a state department or agency as authorized by section 8A.451, and any other assets directed to be held in trust for the exclusive benefit of participants in the state's health flexible spending account plan. Moneys in the fund are not subject to section 8.33. Notwithstanding section 12C.7, interest and earnings from moneys in the trust fund shall be credited to the trust fund and shall be used exclusively for the benefit of plan participants.

3. The director shall serve as trustee of the trust fund and has the authority to direct expenditures as deemed appropriate to the exclusive benefit of the plan participants.

2003 Acts, ch 145, §73

#### **Footnotes**

Authority of governing body, §509A.1

#### **8A.438 Annuity contracts.**

1. At the request of an employee of a state agency through contractual agreement, the director may arrange for the purchase of group or individual annuity contracts for any of the employees of that agency, which annuity contracts are issued by a nonprofit corporation issuing retirement annuities exclusively for educational institutions and their employees or are purchased from any company the employee chooses that is authorized to do business in this state or through an Iowa-licensed salesperson that the employee selects, on a group or individual basis, for retirement or other purposes, and may make payroll deductions in accordance with the arrangements for the purpose of paying the entire premium due and to become due under the contract. The deductions shall be made in the manner which will qualify the annuity premiums for the benefits afforded under section 403(b) of the Internal Revenue Code, as defined in section 422.3. The employee's rights under the annuity contract are nonforfeitable except for the failure to pay premiums. As used in this section, unless the context otherwise requires, "annuity contract" includes any custodial account which meets the requirements of section 403(b)(7) of the Internal Revenue Code, as defined in section 422.3.

2. Whenever an existing tax-sheltered annuity contract is to be replaced by a new contract, the agent or representative of the company shall send a letter of intent by registered mail at least thirty days prior to any action to the company being replaced, to the commissioner of insurance of this state, to the agent's own company, and to the director. The letter of intent shall contain the policy number and description of the contract being replaced and a description of the replacement contract.

2003 Acts, ch 145, §74

#### **8A.439 Longevity pay prohibited exception.**

A state employee subject to the provisions of this subchapter shall not be entitled to longevity pay except for those employees granted longevity pay pursuant to section 307.48.

2003 Acts, ch 145, §75

#### **8A.440 through 8A.450 Reserved.**

#### **8A.451 Human resources administrative costs.**

1. The department may quarterly render a statement to each department or agency which operates in whole or in part from other than general fund appropriations for a pro rata share of the cost of administration of the department, or a portion thereof, as it relates to the state human resources management duties of the department pursuant to this subchapter. The expense shall be paid by the state department or agency in the same manner as other expenses of that department or agency are paid and all moneys received shall be deposited in the general fund of the state.

2. The department shall render monthly a statement to each state department or agency for a pro rata share of the cost of administration of the state employee flexible spending accounts. The expense shall be paid by the state department or agency in the same manner as other expenses of that state department or agency are paid and all moneys received for administration costs shall be deposited in the appropriate fund.

2003 Acts, ch 145, §76

#### **8A.452 Use of public buildings.**

All officers and employees of the state and of political subdivisions of the state shall allow the department the reasonable use of public buildings under their control, and furnish heat, light, and furniture for any examination, hearing, or investigation authorized by this subchapter. The department shall pay to a political subdivision the reasonable cost of any such facilities furnished.

2003 Acts, ch 145, §77

#### **8A.453 Aid by state employees records and information.**

1. All officers and employees of the state shall comply with and aid in all proper ways in carrying out the provisions of this subchapter and the rules and orders under this subchapter. All officers and employees shall furnish any records or information which the director requires for any purpose of this subchapter. The director may institute and maintain any action or proceeding at law or in equity that the director considers necessary or appropriate to secure compliance with this subchapter and the rules and orders under this subchapter.

2. The director may delegate to a person in any department, agency, board, commission, or office, located away from the seat of government, any of the duties imposed by this subchapter upon the director.

**8A.454 Health insurance administration fund.**

1. A separate, special Iowa state health insurance administration fund is created in the state treasury under the control of the department. The fund shall consist of all moneys deposited in the fund from proceeds of a monthly per contract administrative charge assessed and collected by the department. Moneys deposited in the fund shall be expended by the department for health insurance program administration costs. Notwithstanding section 12C.7, subsection 2, interest or earnings on moneys deposited in the fund shall be credited to the fund.
2. A monthly per contract administrative charge shall be assessed by the department on all health insurance plans administered by the department in which the contract holder has a state employer to pay the charge. The amount of the administrative charge shall be established by the general assembly. The department shall collect the administrative charge from each department utilizing the centralized payroll system and shall deposit the proceeds in the fund. In addition, the state board of regents, all library service areas, the state fair board, the state department of transportation, and each judicial district department of correctional services shall remit the administrative charge on a monthly basis to the department and shall submit a report to the department containing the number and type of health insurance contracts held by each of its employees whose health insurance is administered by the department.
3. The expenditure of moneys from the fund in any fiscal year shall not exceed the amount of the monthly charge established by the general assembly multiplied by the number of health insurance contracts in effect at the beginning of the same fiscal year in which the expenditures shall be made. Any unencumbered or unobligated moneys in the fund at the end of the fiscal year shall not revert but shall be transferred to the health insurance premium reserve fund established pursuant to section 509A.5.
4. This section is repealed July 1, 2007.

Monthly per contract administrative charge for fiscal year beginning July 1, 2003; 2003 Acts, ch 181, §38

**8A.455 Certification of payrolls actions.**

1. A state disbursing or auditing officer shall not make or approve or take part in making or approving a payment for personnel services to any person unless the payroll voucher or account of the pay bears the certification of the director, or of the director's authorized agent, that the persons named have been appointed and employed in accordance with this subchapter and the rules and orders under this subchapter, and that funds are available for the payment of the persons.
2. The director may, for proper cause, withhold certification from an entire payroll or from any specific item or items on a payroll. The director may, however, provide that certification of payrolls may be made once every year, and such certification shall remain in effect except in the case of any officer or employee whose status has changed after the last certification of the officer's or employee's payroll. In the latter case a voucher for payment of salary to such employee shall not be issued or payment of salary shall not be made without further certification by the director.
3. Any citizen may maintain an action in accordance with chapter 17A to restrain a disbursing officer from making any payment in contravention of this subchapter, or rule or order under this subchapter. Any sum paid contrary to this subchapter or any rule or order under this subchapter may be recovered in an action in accordance with chapter 17A maintained by any citizen, from any officer who made, approved, or authorized such payment or who signed or countersigned a voucher, payroll, check, or warrant for such payment, or

from the sureties on the official bond of any such officer. All moneys recovered in any such action shall be paid into the state treasury.

4. Any person appointed or employed in contravention of this subchapter or of any rule or order under this subchapter who performs service for which the person is not paid may maintain an action in accordance with chapter 17A against the officer or officers who purported so to appoint or employ the person to recover the agreed pay for such services or the reasonable value of the services if no pay was agreed upon. An officer shall not be reimbursed by the state at any time for any sum paid to such person on account of such services.

5. If the director wrongfully withholds certification of the payroll voucher or account of any employee, such employee may maintain a proceeding in accordance with chapter 17A in the courts to compel the director to certify such a payroll voucher or account.

2003 Acts, ch 145, §80

#### **8A.456 Access to records.**

1. An employee subject to the provisions of this subchapter shall have access to the employee's personal file.

2. An applicant for a position subject to the provisions of this subchapter shall be permitted to review, in accordance with such rules as the director may prescribe, any evaluation resulting from the application for employment.

2003 Acts, ch 145, §81

#### **Footnotes**

See also §91B.1

#### **8A.457 Workers' compensation claims.**

The director shall employ appropriate staff to handle and adjust claims of state employees for workers' compensation benefits pursuant to chapters 85, 85A, 85B, and 86, or with the approval of the executive council contract for the services or purchase workers' compensation insurance coverage for state employees or selected groups of state employees. A state employee workers' compensation fund is created in the state treasury under the control of the department to pay state employee workers' compensation claims and administrative costs. The department shall establish a rating formula and assess premiums to all agencies, departments, and divisions of the state including those which have not received an appropriation for the payment of workers' compensation insurance and which operate from moneys other than from the general fund of the state. The department shall collect the premiums and deposit them into the state employee workers' compensation fund. Notwithstanding section 8.33, moneys deposited in the state employee workers' compensation fund shall not revert to the general fund of the state at the end of any fiscal year, but shall remain in the state employee workers' compensation fund and be continuously available to pay state employee workers' compensation claims. The director may, to the extent practicable, contract with a private organization to handle the processing and payment of claims and services rendered under the provisions of this section.

2003 Acts, ch 145, §82

#### **8A.458 Penalty.**

A person who willfully violates this subchapter or any rules adopted pursuant to this subchapter, where no

other penalty is prescribed, is guilty of a simple misdemeanor.

2003 Acts, ch 145, §83

**8A.459 through 8A.501** Reserved.

**8A.502 Financial administration duties.**

The department shall provide for the efficient management and administration of the financial resources of state government and shall have and assume the following powers and duties:

1. *Centralized accounting system.* To assume the responsibilities related to a centralized accounting system for state government.
2. *Setoff procedures.* To establish and maintain a setoff procedure as provided in section 8A.504.
3. *Cost allocation system.* To establish a cost allocation system as provided in section 8A.505.
4. *Collection and payment of funds monthly payments.* To control the payment of all moneys into the state treasury, and all payments from the state treasury by the preparation of appropriate warrants, or warrant checks, directing such collections and payment, and to advise the treasurer of state monthly in writing of the amount of public funds not currently needed for operating expenses. Whenever the state treasury includes state funds that require distribution to counties, cities, or other political subdivisions of this state, and the counties, cities, and other political subdivisions certify to the director that warrants will be stamped for lack of funds within the thirty-day period following certification, the director may partially distribute the funds on a monthly basis. Whenever the law requires that any funds be paid by a specific date, the director shall prepare a final accounting and shall make a final distribution of any remaining funds prior to that date.
5. *Preaudit system.* To establish and fix a reasonable imprest cash fund for each state department and institution for disbursement purposes where needed. These revolving funds shall be reimbursed only upon vouchers approved by the director. It is the purpose of this subsection to establish a preaudit system of settling all claims against the state, but the preaudit system is not applicable to any of the following:
  - a. Institutions under the control of the state board of regents.
  - b. The state fair board as established in chapter 173.
  - c. The Iowa dairy industry commission as established in chapter 179, the Iowa beef cattle producers association as established in chapter 181, the Iowa pork producers council as established in chapter 183A, the Iowa egg council as established in chapter 184, the Iowa turkey marketing council as established in chapter 184A, the Iowa soybean promotion board as established in chapter 185, and the Iowa corn promotion board as established in chapter 185C.
6. *Audit of claims.* To set rules and procedures for the preaudit of claims by individual agencies or organizations. The director reserves the right to refuse to accept incomplete or incorrect claims and to review, preaudit, or audit claims as determined by the director.
7. *Contracts.* To certify, record, and encumber all formal contracts to prevent overcommitment of appropriations and allotments.
8. *Accounts.* To keep the central budget and proprietary control accounts of the general fund of the state and special funds, as defined in section 8.2, of the state government. Upon elimination of the state deficit under generally accepted accounting principles, including the payment of items budgeted in a subsequent fiscal year

which under generally accepted accounting principles should be budgeted in the current fiscal year, the recognition of revenues received and expenditures paid and transfers received and paid within the time period required pursuant to section 8.33 shall be in accordance with generally accepted accounting principles. Budget accounts are those accounts maintained to control the receipt and disposition of all funds, appropriations, and allotments. Proprietary accounts are those accounts relating to assets, liabilities, income, and expense. For each fiscal year, the financial position and results of operations of the state shall be reported in a comprehensive annual financial report prepared in accordance with generally accepted accounting principles, as established by the governmental accounting standards board.

9. *Fair board and board of regents.* To control the financial operations of the state fair board and the institutions under the state board of regents:

a. By charging all warrants issued to the respective educational institutions and the state fair board to an advance account to be further accounted for and not as an expense which requires no further accounting.

b. By charging all collections made by the educational institutions and state fair board to the respective advance accounts of the institutions and state fair board, and by crediting all such repayment collections to the respective appropriations and special funds.

c. By charging all disbursements made to the respective allotment accounts of each educational institution or state fair board and by crediting all such disbursements to the respective advance and inventory accounts.

d. By requiring a monthly abstract of all receipts and of all disbursements, both money and stores, and a complete account current each month from each educational institution and the state fair board.

10. *Entities representing agricultural producers.* To control the financial operations of the Iowa dairy industry commission as provided in chapter 179, the Iowa beef cattle producers association as provided in chapter 181, the Iowa pork producers council as provided in chapter 183A, the Iowa egg council as provided in chapter 184, the Iowa turkey marketing council as provided in chapter 184A, the Iowa soybean promotion board as provided in chapter 185, and the Iowa corn promotion board as provided in chapter 185C.

11. *Custody of records.* To have the custody of all books, papers, records, documents, vouchers, conveyances, leases, mortgages, bonds, and other securities appertaining to the fiscal affairs and property of the state, which are not required to be kept in some other office.

12. *Interest of the permanent school fund.* To transfer the interest of the permanent school fund to the credit of the interest for Iowa schools fund.

13. *Forms.* To prescribe all accounting and business forms and the system of accounts and reports of financial transactions by all departments and agencies of the state government other than those of the legislative branch.

14. *Federal Cash Management and Improvement Act administrator.* To serve as administrator for state actions relating to the federal Cash Management and Improvement Act of 1990, Pub. L. No. 101-453, as codified in 31 U.S.C. § 6503. The director shall perform the following duties relating to the federal law:

a. Act as the designated representative of the state in the negotiation and administration of contracts between the state and federal government relating to the federal law.

b. Modify the centralized statewide accounting system and develop, or require to be developed by the appropriate departments of state government, the necessary reports and procedures necessary to complete the managerial and financial reports required to comply with the federal law.

There is annually appropriated from the general fund of the state to the department an amount sufficient to pay interest costs that may be due the federal government as a result of implementation of the federal law. This paragraph does not authorize the payment of interest from the general fund of the state for any departmental revolving, trust, or special fund where monthly interest earnings accrue to the credit of the departmental revolving, trust, or special fund. For any departmental revolving, trust, or special fund where monthly interest is accrued to the credit of the fund, the director may authorize a supplemental expenditure to pay interest costs from the individual fund which are due the federal government as a result of implementation of the federal law.

2003 Acts, ch 145, §84

#### **8A.503 Rules deposit of departmental moneys.**

The director shall prescribe by rule the manner and methods by which all departments and agencies of the state who collect money for and on behalf of the state shall cause the money to be deposited with the treasurer of state or in a depository designated by the treasurer of state. All such moneys collected shall be deposited at such times and in such depositories to permit the state of Iowa to deposit the funds in a manner consistent with the state's investment policies. All such moneys shall be promptly deposited, as directed, even though the individual amount remitted may not be correct. If any individual amount remitted is in excess of the amount required, the department or agency receiving the same shall refund the excess amount. If the individual amount remitted is insufficient, the person, firm, or corporation concerned shall be immediately billed for the amount of the deficiency.

2003 Acts, ch 145, §85

#### **8A.504 Setoff procedures.**

1. *Definitions.* As used in this section, unless the context otherwise requires:

a. *"Collection entity"* means the department of administrative services and any other state agency that maintains a separate accounting system and elects to establish a debt collection setoff procedure for collection of debts owed to the state or its agencies.

b. *"Person"* does not include a state agency.

c. *"Qualifying debt"* includes, but is not limited to, the following:

(1) Any debt, which is assigned to the department of human services, or which the child support recovery unit is otherwise attempting to collect, or which the foster care recovery unit of the department of human services is attempting to collect on behalf of a child receiving foster care provided by the department of human services.

(2) An amount that is due because of a default on a guaranteed student or parental loan under chapter 261.

(3) Any debt which is in the form of a liquidated sum due, owing, and payable to the clerk of the district court.

d. *"State agency"* means a board, commission, department, including the department of administrative services, or other administrative office or unit of the state of Iowa or any other state entity reported in the Iowa comprehensive annual financial report. *"State agency"* does include the clerk of the district court as it relates to the collection of a qualifying debt. *"State agency"* does not include the general assembly, the governor, or any political subdivision of the state, or its offices and units.

2. *Setoff procedure.* The collection entity shall establish and maintain a procedure to set off against any claim owed to a person by a state agency any liability of that person owed to a state agency, a support debt being enforced by the child support recovery unit pursuant to chapter 252B, or such other qualifying debt. The procedure shall only apply when at the discretion of the director it is feasible. The procedure shall meet the following conditions:

- a. Before setoff, a person's liability to a state agency and the person's claim on a state agency shall be in the form of a liquidated sum due, owing, and payable.
- b. Before setoff, the state agency shall obtain and forward to the collection entity the full name and social security number of the person liable to it or to whom a claim is owing who is a natural person. If the person is not a natural person, before setoff, the state agency shall forward to the collection entity the information concerning the person as the collection entity shall, by rule, require. The collection entity shall cooperate with other state agencies in the exchange of information relevant to the identification of persons liable to or claimants of state agencies. However, the collection entity shall provide only relevant information required by a state agency. The information shall be held in confidence and used for the purpose of setoff only. Section 422.72, subsection 1, does not apply to this paragraph.
- c. Before setoff, a state agency shall, at least annually, submit to the collection entity the information required by paragraph "b" along with the amount of each person's liability to and the amount of each claim on the state agency. The collection entity may, by rule, require more frequent submissions.
- d. Before setoff, the amount of a person's claim on a state agency and the amount of a person's liability to a state agency shall constitute a minimum amount set by rule of the collection entity.
- e. Upon submission of an allegation of liability by a state agency, the collection entity shall notify the state agency whether the person allegedly liable is entitled to payment from a state agency, and, if so entitled, shall notify the state agency of the amount of the person's entitlement and of the person's last address known to the collection entity. Section 422.72, subsection 1, does not apply to this paragraph.
- f. Upon notice of entitlement to a payment, the state agency shall send written notification to that person of the state agency's assertion of its rights to all or a portion of the payment and of the state agency's entitlement to recover the liability through the setoff procedure, the basis of the assertion, the opportunity to request that a jointly or commonly owned right to payment be divided among owners, and the person's opportunity to give written notice of intent to contest the amount of the allegation. The state agency shall send a copy of the notice to the collection entity. A state agency subject to chapter 17A shall give notice, conduct hearings, and allow appeals in conformity with chapter 17A.

However, upon submission of an allegation of the liability of a person which is owing and payable to the clerk of the district court and upon the determination by the collection entity that the person allegedly liable is entitled to payment from a state agency, the collection entity shall send written notification to the person which states the assertion by the clerk of the district court of rights to all or a portion of the payment, the clerk's entitlement to recover the liability through the setoff procedure, the basis of the assertions, the person's opportunity to request within fifteen days of the mailing of the notice that the collection entity divide a jointly or commonly owned right to payment between owners, the opportunity to contest the liability to the clerk by written application to the clerk within fifteen days of the mailing of the notice, and the person's opportunity to contest the collection entity's setoff procedure.

- g. Upon the timely request of a person liable to a state agency or of the spouse of that person and upon receipt of the full name and social security number of the person's spouse, a state agency shall notify the collection entity of the request to divide a jointly or commonly owned right to payment. Any jointly or commonly owned right to payment is rebuttably presumed to be owned in equal portions by its joint or common owners.

*h.* The collection entity shall, after the state agency has sent notice to the person liable or, if the liability is owing and payable to the clerk of the district court, the collection entity has sent notice to the person liable, set off the amount owed to the agency against any amount which a state agency owes that person. The collection entity shall refund any balance of the amount to the person. The collection entity shall periodically transfer amounts set off to the state agencies entitled to them. If a person liable to a state agency gives written notice of intent to contest an allegation, a state agency shall hold a refund or rebate until final disposition of the allegation. Upon completion of the setoff, a state agency shall notify in writing the person who was liable or, if the liability is owing and payable to the clerk of the district court, shall comply with the procedures as provided in paragraph "j".

*i.* The department of revenue's existing right to credit against tax due or to become due under section 422.73 is not to be impaired by a right granted to or a duty imposed upon the collection entity or other state agency by this section. This section is not intended to impose upon the collection entity or the department of revenue any additional requirement of notice, hearing, or appeal concerning the right to credit against tax due under section 422.73.

*j.* If the alleged liability is owing and payable to the clerk of the district court and setoff as provided in this section is sought, all of the following shall apply:

(1) The judicial branch shall prescribe procedures to permit a person to contest the amount of the person's liability to the clerk of the district court.

(2) The collection entity shall, except for the procedures described in subparagraph (1), prescribe any other applicable procedures concerning setoff as provided in this subsection.

(3) Upon completion of the setoff, the collection entity shall file, at least monthly, with the clerk of the district court a notice of satisfaction of each obligation to the full extent of all moneys collected in satisfaction of the obligation. The clerk shall record the notice and enter a satisfaction for the amounts collected and a separate written notice is not required.

3. In the case of multiple claims to payments filed under this section, priority shall be given to claims filed by the child support recovery unit or the foster care recovery unit, next priority shall be given to claims filed by the college student aid commission, next priority shall be given to claims filed by the investigations division of the department of inspections and appeals, next priority shall be given to claims filed by a clerk of the district court, and last priority shall be given to claims filed by other state agencies. In the case of multiple claims in which the priority is not otherwise provided by this subsection, priority shall be determined in accordance with rules to be established by the director.

4. The director shall have the authority to enter into reciprocal agreements with the departments of revenue of other states that have enacted legislation that is substantially equivalent to the setoff procedure provided in this section for the recovery of an amount due because of a default on a guaranteed student or parental loan under chapter 261. A reciprocal agreement shall also be approved by the college student aid commission. The agreement shall authorize the department to provide by rule for the setoff of state income tax refunds or rebates of defaulters from states with which Iowa has a reciprocal agreement and to provide for sending lists of names of Iowa defaulters to the states with which Iowa has a reciprocal agreement for setoff of that state's income tax refunds.

5. Under substantive rules established by the director, the department shall seek reimbursement from other state agencies to recover its costs for setting off liabilities.

2003 Acts, ch 145, §86, 286

**8A.505 Cost allocation system appropriation.**

1. The department shall develop and administer an indirect cost allocation system for state agencies. The system shall be based upon standard cost accounting methodologies and shall be used to allocate both direct and indirect costs of state agencies or state agency functions in providing centralized services to other state agencies. A cost that is allocated to a state agency pursuant to this system shall be billed to the state agency and the cost is payable to the general fund of the state. The source of payment for the billed cost shall be any revenue source except for the general fund of the state. If a state agency is authorized by law to bill and recover direct expenses, the state agency shall recover indirect costs in the same manner.

2. There is appropriated annually from the increase in indirect cost reimbursements over the amount of indirect cost reimbursements received during the fiscal year beginning July 1, 2002, to the office of grants enterprise management of the department of management the sum of up to one hundred twenty-five thousand dollars. The director shall transfer the funds appropriated to the department of management as provided in this subsection and shall make the funds resulting from the increase in reimbursements available during the fiscal year to the department of management on a monthly basis. If the amount of the increase in indirect cost reimbursements is insufficient to pay the maximum appropriation provided for in this subsection, the amount appropriated is equal to the amount of such increase.

2003 Acts, ch 145, §87; 2003 Acts, 1st Ex, ch 2, §34, 209

## **Footnotes**

Office of grants enterprise management, see §8.9

### **8A.506 Accounting.**

The director may at any time require any person receiving money, securities, or property belonging to the state, or having the management, disbursement, or other disposition of them, an account of which is kept in the department, to render statements of them and information in reference to them.

2003 Acts, ch 145, §88

### **8A.507 Stating account.**

If an officer who is accountable to the state treasury for any money or property neglects to render an account to the director within the time prescribed by law, or if no time is so prescribed, within twenty days after being required to do so by the director, the director shall state an account against the officer from the books of the officer's office, charging ten percent damages on the whole sum appearing due, and interest at the rate of six percent per annum on the aggregate from the time when the account should have been rendered; all of which may be recovered by action brought on the account, or on the official bond of the officer.

2003 Acts, ch 145, §89

### **8A.508 Compelling payment.**

If an officer fails to pay into the state treasury the amount received by the officer within the time prescribed by law, or having settled with the director, fails to pay the amount found due, the director shall charge the officer with twenty percent damages on the amount due, with interest on the aggregate from the time the amount became due at the rate of six percent per annum, and the whole may be recovered by an action brought on the account, or on the official bond of the officer, and the officer shall forfeit the officer's commission.

2003 Acts, ch 145, §90

### **8A.509 Defense to claim.**

The penal provisions in sections 8A.507 and 8A.508 are subject to any legal defense which the officer may have against the account as stated by the director, but judgment for costs shall be rendered against the officer in the action, whatever its result, unless the officer rendered an account within the time named in those sections.

2003 Acts, ch 145, §91

### **8A.510 Requested credits oath required.**

When a county treasurer or other receiver of public money seeks to obtain credit on the books of the department for payment made to the county treasurer, before giving such credit the director shall require that person to take and subscribe an oath that the person has not used, loaned, or appropriated any of the public money for the person's private benefit, nor for the benefit of any other person.

2003 Acts, ch 145, §92

### **8A.511 Requisition for information.**

In those cases where the director is authorized to call upon persons or officers for information, or statements, or accounts, the director may issue a requisition therefor in writing to the person or officer called upon, allowing reasonable time, which, having been served and return made to the director, as a notice in a civil action, is evidence of the making of the requisition.

2003 Acts, ch 145, §93

### **8A.512 Limits on claims.**

The director is limited in authorizing the payment of claims, as follows:

#### *1. Funding limit.*

*a.* A claim shall not be allowed by the department if the appropriation or fund of certification available for paying the claim has been exhausted or proves insufficient.

*b.* The authority of the director is subject to the following exceptions:

(1) Claims by state employees for benefits pursuant to chapters 85, 85A, 85B, and 86 are subject to limitations provided in those chapters.

(2) Claims for medical assistance payments authorized under chapter 249A are subject to the time limits imposed by rule adopted by the department of human services.

(3) Claims approved by an agency according to the provisions of sections 25.1 and 25.2.

*2. Convention expenses.* Claims for expenses in attending conventions, meetings, conferences, or gatherings of members of an association or society organized and existing as a quasi-public association or society outside the state of Iowa shall not be allowed at public expense, unless authorized by the executive council; and claims for these expenses outside of the state shall not be allowed unless the voucher is accompanied by

the portion of the minutes of the executive council, certified to by its secretary, showing that the expense was authorized by the council. This section does not apply to claims in favor of the governor, attorney general, utilities board members, or to trips referred to in sections 97B.7A and 217.20.

3. *Payment from fees.* Claims for per diem and expenses payable from fees shall not be approved for payment in excess of those fees if the law provides that such expenditures are limited to the special funds collected and deposited in the state treasury.

2003 Acts, ch 145, §94

### **8A.513 Claims approval.**

The director before approving a claim on behalf of the department shall determine:

1. That the creation of the claim is clearly authorized by law. Statutes authorizing the expenditure may be referenced through account coding authorized by the director.
2. That the claim has been authorized by an officer or official body having legal authority to so authorize and that the fact of authorization has been certified to the director by such officer or official body.
3. That all legal requirements have been observed, including notice and opportunity for competition, if required by law.
4. That the claim is in proper form as the director may provide.
5. That the charges are reasonable, proper, and correct and no part of the claim has been paid.

2003 Acts, ch 145, §95

### **8A.514 Vouchers interest payment of claims.**

1. Before a warrant or its equivalent is issued for a claim payable from the state treasury, the department shall file an itemized voucher showing in detail the items of service, expense, item furnished, or contract for which payment is sought. However, the director may authorize the prepayment of claims when the best interests of the state are served under rules adopted by the director. The claimant's original invoice shall be attached to a department's approved voucher. The director shall adopt rules specifying the form and contents for invoices submitted by a vendor to a department. The requirements apply to acceptance of an invoice by a department. A department shall not impose additional or different requirements on submission of invoices than those contained in rules of the director unless the director exempts the department from the invoice requirements or a part of the requirements upon a finding that compliance would result in poor accounting or management practices.

2. Vouchers for postage, stamped envelopes, and postal cards may be audited as soon as an order for them is entered.

3. The departments, the general assembly, and the courts shall pay their claims in a timely manner. If a claim for services, supplies, materials, or a contract which is payable from the state treasury remains unpaid after sixty days following the receipt of the claim or the satisfactory delivery, furnishing, or performance of the services, supplies, materials, or contract, whichever date is later, the state shall pay interest at the rate of one percent per month on the unpaid amount of the claim. This subsection does not apply to claims against the state under chapters 25 and 669 or to claims paid by federal funds. The interest shall be charged to the appropriation or fund to which the claim is certified. Departments may enter into contracts for goods or services on payment terms of less than sixty days if the state may obtain a financial benefit or incentive

which would not otherwise be available from the vendor. The department, in consultation with other affected departments, shall develop policies to promote consistency and fiscal responsibility relating to payment terms authorized under this subsection. The director shall adopt rules under chapter 17A relating to the administration of this subsection.

2003 Acts, ch 145, §96

**8A.515 Warrants form.**

A warrant shall bear on its face the signature of the director or its facsimile, or the signature of an assistant or its facsimile in case of a vacancy in the office of the director; a proper number, date, amount, and name of payee; a reference to the law under which it is drawn; whether for salaries or wages, services, or supplies, and what kind of supplies; and from what office or department, or for what other general or special purposes; or in lieu thereof, a coding system may be used, which particulars shall be entered in a warrant register kept for that purpose in the order of issuance; and as soon as practicable after issuing a warrant register, the director shall certify a duplicate of it to the treasurer of state.

2003 Acts, ch 145, §97

**8A.516 Required payee.**

All warrants shall be drawn to the order of the person entitled to payment or compensation, except that when goods or materials are purchased in foreign countries, warrants may be drawn upon the treasurer of state, payable to the bearer for the net amount of invoice and current exchange, and the treasurer of state shall furnish a foreign draft payable to the order of the person from whom purchase is made.

2003 Acts, ch 145, §98

**8A.517 Prohibited payee.**

In no case shall warrants be drawn in the name of the certifying office, department, board, or institution, or in the name of an employee, except for personal service rendered or expense incurred by the employee, unless express statutory authority exists therefor.

2003 Acts, ch 145, §99

**8A.518 Claims exceeding appropriations.**

A claim shall not be allowed when the claim will exceed the amount specifically appropriated for the claim.

2003 Acts, ch 145, §100

**8A.519 Cancellation of state warrants.**

On the last business day of each month, the director shall cancel and request the treasurer of state to stop payment on all state warrants which have been outstanding and unredeemed by the treasurer of state for six months or longer.

2003 Acts, ch 145, §101