

## CHAPTER 514I

## HEALTHY AND WELL KIDS IN IOWA PROGRAM

Establishment of hawk-i trust fund in state  
treasury; 98 Acts, ch 1218, §48

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**514I.1 Intent of the general assembly.**

1. It is the intent of the general assembly to provide health care coverage to eligible children that improves access to preventive, diagnostic, and treatment health services which result in improved health status using in part resources made available from the passage of Tit. XXI of the federal Social Security Act.

2. It is the intent of the general assembly that the program be implemented and administered in compliance with Tit. XXI of the federal Social Security Act. If, as a condition of receiving federal funds for the program, federal law requires implementation and administration of the program in a manner not provided in [this chapter](#), during a period when the general assembly is not in session, the department, with the approval of the hawk-i board, shall proceed to implement and administer those provisions, subject to review by the next regular session of the general assembly.

3. It is the intent of the general assembly, recognizing the importance of outreach to the successful utilization of the program by eligible children, that within the limitations of funding allowed for outreach and administration expenses, the maximum amount possible be used for outreach.

4. It is the intent of the general assembly that the hawk-i program be an integral part of the continuum of health insurance coverage and that the program be developed and implemented in such a manner as to facilitate movement of families between health insurance providers and to facilitate the transition of families to private sector health insurance coverage.

5. It is the intent of the general assembly that if federal reauthorization of the state children's health insurance program provides sufficient federal allocations to the state and authorization to cover such children as an option under the state children's health insurance program, the department shall expand coverage under the state children's health insurance program to cover children with family incomes at or below three hundred percent of the federal poverty level.

[98 Acts, ch 1196, §2, 16; 2003 Acts, ch 108, §131; 2008 Acts, ch 1188, §5, 6; 2009 Acts, ch 118, §23](#)

**514I.2 Definitions.**

As used in [this chapter](#), unless the context otherwise requires:

1. "Administrative contractor" means the person with whom the department enters a contract to administer the hawk-i program under [this chapter](#).

2. "Benchmark benefit package" means any of the following:

a. The standard blue cross/blue shield preferred provider option service benefit plan, described in and offered under 5 U.S.C. §8903(1).

b. A health benefits coverage plan that is offered and generally available to state employees in this state.

c. The plan of a health maintenance organization as defined in 42 U.S.C. §300e, with the largest insured commercial, nonmedical assistance enrollment of covered lives in the state.

3. “Cost sharing” means the payment of a premium or copayment as provided for by Tit. XXI of the federal Social Security Act and [section 514I.10](#).

4. “Department” means the department of human services.

5. “Director” means the director of human services.

6. “Eligible child” means an individual who meets the criteria for participation in the program under [section 514I.8](#).

7. “Hawk-i board” or “board” means the entity which adopts rules and establishes policy for, and directs the department regarding, the hawk-i program.

8. “Hawk-i program” or “program” means the healthy and well kids in Iowa program created in [this chapter](#) to provide health insurance coverage to eligible children.

9. “Health insurance coverage” means health insurance coverage as defined in 42 U.S.C. §300gg-91.

10. “Participating insurer” means any entity licensed by the division of insurance of the department of commerce to provide health insurance in Iowa or an organized delivery system licensed by the director of public health that has contracted with the department to provide health insurance coverage to eligible children under [this chapter](#).

11. “Qualified child health plan” or “plan” means health insurance coverage provided by a participating insurer under [this chapter](#).

[98 Acts, ch 1196, §3, 16; 2003 Acts, ch 108, §131; 2008 Acts, ch 1188, §7; 2009 Acts, ch 118, §24; 2014 Acts, ch 1092, §184](#)

Subsection 9 amended

### **514I.3 Hawk-i program — established.**

1. The hawk-i program, a statewide program designed to improve the health of children and to provide health insurance coverage to eligible children on a regional basis which complies with Tit. XXI of the federal Social Security Act, is established and shall be implemented January 1, 1999.

2. Health insurance coverage under the program shall be provided by participating insurers and through qualified child health plans.

3. The department of human services is designated to receive the state and federal funds appropriated or provided for the program, and to submit and maintain the state plan for the program, which is approved by the centers for Medicare and Medicaid services of the United States department of health and human services.

4. Nothing in [this chapter](#) shall be construed or is intended as, or shall imply, a grant of entitlement for services to persons who are eligible for participation in the program based upon eligibility consistent with the requirements of [this chapter](#). Any state obligation to provide services pursuant to [this chapter](#) is limited to the extent of the funds appropriated or provided for [this chapter](#).

5. Participating insurers under [this chapter](#) are not subject to the requirements of [chapters 513B and 513C](#).

6. Health care coverage provided under [this chapter](#) in accordance with Tit. XXI of the federal Social Security Act shall be recognized as prior creditable coverage for the purposes of private individual and group health insurance coverage.

[98 Acts, ch 1196, §4, 16; 2002 Acts, ch 1050, §45; 2003 Acts, ch 108, §131; 2009 Acts, ch 118, §25](#)

### **514I.4 Director and department — duties — powers.**

1. The director, with the approval of the hawk-i board, shall implement [this chapter](#). The director shall do all of the following:

a. At least every six months, evaluate the scope of the program currently being provided under [this chapter](#), project the probable cost of continuing the program, and compare the probable cost with the remaining balance of the state appropriation made for payment of assistance under [this chapter](#) during the current appropriation period. The director shall report the findings of the evaluation to the board and shall annually report findings to the governor and the general assembly by January 1.

b. Establish premiums to be paid to participating insurers for provision of health insurance coverage.

c. Contract with participating insurers to provide health insurance coverage under [this chapter](#).

d. Recommend to the board proposed rules necessary to implement the program.

e. Recommend to the board individuals to serve as members of the clinical advisory committee.

2. a. The director, with the approval of the board, may contract with participating insurers to provide dental-only services.

b. The director, with the approval of the board, may contract with participating insurers to provide the supplemental dental-only coverage to otherwise eligible children who have private health care coverage as specified in the federal Children's Health Insurance Program Reauthorization Act of 2009, Pub. L. No. 111-3.

3. The director, with the concurrence of the board, shall enter into a contract with an administrative contractor. Such contract shall be entered into in accordance with the criteria established by the board.

4. The department may enter into contracts with other persons whereby the other person provides some or all of the functions, pursuant to rules adopted by the board, which are required of the director or the department under [this section](#). All contracts entered into pursuant to [this section](#) shall be made available to the public.

5. The department shall do or shall provide for all of the following:

a. (1) Establish the family cost sharing amounts for children of families with incomes of one hundred fifty percent or more but not exceeding two hundred percent of the federal poverty level, of not less than ten dollars per individual and twenty dollars per family, if not otherwise prohibited by federal law, with the approval of the board.

(2) Establish for children of families with incomes exceeding two hundred percent but not exceeding three hundred percent of the federal poverty level, family cost sharing amounts, and graduated premiums based on a rationally developed sliding fee schedule, in accordance with federal law, with the approval of the board.

b. Perform annual, random reviews of enrollee applications to ensure compliance with program eligibility and enrollment policies. Quality assurance reports shall be made to the board and the department based upon the data maintained by the administrative contractor.

c. Perform other duties as determined by the department with the approval of the board.  
[98 Acts, ch 1196, §5, 16; 2003 Acts, ch 108, §131; 2003 Acts, ch 124, §1; 2003 Acts, ch 175, §38; 2009 Acts, ch 118, §26, 27; 2013 Acts, ch 138, §95](#)

#### **514I.5 Hawk-i board.**

1. A hawk-i board for the hawk-i program is established. The board shall meet not less than six and not more than twelve times annually, for the purposes of establishing policy for, directing the department on, and adopting rules for the program. The board shall consist of seven voting members and four ex officio, nonvoting members, including all of the following:

a. The commissioner of insurance, or the commissioner's designee.

b. The director of the department of education, or the director's designee.

c. The director of public health, or the director's designee.

d. Four public members appointed by the governor and subject to confirmation by the senate. The public members shall be members of the general public who have experience, knowledge, or expertise in the subject matter embraced within [this chapter](#).

e. Two members of the senate and two members of the house of representatives, serving as ex officio, nonvoting members. The legislative members of the board shall be appointed one each by the majority leader of the senate, after consultation with the president of the senate, and by the minority leader of the senate, and by the speaker of the house of representatives, after consultation with the majority leader of the house of representatives, and by the minority leader of the house of representatives. Legislative members shall receive compensation pursuant to [section 2.12](#).

2. A public member shall not have a conflict of interest with the administrative contractor.

3. Members appointed by the governor shall serve two-year staggered terms as designated

by the governor, and legislative members of the board shall serve two-year terms. The filling of positions reserved for the public representatives, vacancies, membership terms, payment of compensation and expenses, and removal of the members are governed by [chapter 69](#). Members of the board are entitled to receive reimbursement of actual expenses incurred in the discharge of their duties. Public members of the board are also eligible to receive compensation as provided in [section 7E.6](#). A majority of the voting members constitutes a quorum and the affirmative vote of a majority of the voting members is necessary for any substantive action to be taken by the board. The members shall select a chairperson on an annual basis from among the membership of the board.

4. The board shall approve any contract entered into pursuant to [this chapter](#). All contracts entered into pursuant to [this chapter](#) shall be made available to the public.

5. The department of human services shall act as support staff to the board.

6. The board may receive and accept grants, loans, or advances of funds from any person and may receive and accept from any source contributions of money, property, labor, or any other thing of value, to be held, used, and applied for the purposes of the program.

7. The hawk-i board shall do all of the following:

a. Develop the criteria to be included in a request for proposals for the selection of any administrative contractor for the program.

b. Define, in consultation with the department, the regions of the state for which plans are offered in a manner as to ensure access to services for all children participating in the program.

c. Approve the benefit package design, review the benefit package design on a periodic basis, and make necessary changes in the benefit design to reflect the results of the periodic reviews.

d. Develop, with the assistance of the department, an outreach plan, and provide for periodic assessment of the effectiveness of the outreach plan. The plan shall provide outreach to families of children likely to be eligible for assistance under the program, to inform them of the availability of and to assist the families in enrolling children in the program. The outreach efforts may include, but are not limited to, solicitation of cooperation from programs, agencies, and other persons who are likely to have contact with eligible children, including but not limited to those associated with the educational system, and the development of community plans for outreach and marketing. Other state agencies shall assist the department in data collection related to outreach efforts to potentially eligible children and their families.

e. In consultation with the clinical advisory committee, assess the initial health status of children participating in the program, establish a baseline for comparison purposes, and develop appropriate indicators to measure the subsequent health status of children participating in the program.

f. Review, in consultation with the department, and take necessary steps to improve interaction between the program and other public and private programs which provide services to the population of eligible children.

g. By January 1, annually, prepare, with the assistance of the department, and submit a report to the governor, the general assembly, and the council on human services, concerning the board's activities, findings, and recommendations.

h. Solicit input from the public regarding the program and related issues and services.

i. Establish and consult with a clinical advisory committee to make recommendations to the board regarding the clinical aspects of the hawk-i program.

j. Prescribe the elements to be included in a health improvement program plan required to be developed by a participating insurer. The elements shall include but are not limited to health maintenance and prevention and health risk assessment.

k. Establish an advisory committee to make recommendations to the board and to the general assembly by January 1 annually concerning the provision of health insurance coverage to children with special health care needs. The committee shall include individuals with experience in, knowledge of, or expertise in this area. The recommendations shall address, but are not limited to, all of the following:

(1) The definition of the target population of children with special health care needs for the purposes of determining eligibility under the program.

(2) Eligibility options for and assessment of children with special health care needs for eligibility.

(3) Benefit options for children with special health care needs.

(4) Options for enrollment of children with special health care needs in and disenrollment of children with special health care needs from qualified child health plans utilizing a capitated fee form of payment.

(5) The appropriateness and quality of care for children with special health care needs.

(6) The coordination of health services provided for children with special health care needs under the program with services provided by other publicly funded programs.

l. Develop options and recommendations to allow children eligible for the hawk-i program to participate in qualified employer-sponsored health plans through a premium assistance program. The options and recommendations shall ensure reasonable alignment between the benefits and costs of the hawk-i program and the employer-sponsored health plans consistent with federal law. In addition, the board shall implement the premium assistance program options described under the federal Children's Health Insurance Program Reauthorization Act of 2009, Pub. L. No. 111-3, for the hawk-i program.

8. The hawk-i board, in consultation with the department of human services, shall adopt rules which address, but are not limited to addressing, all of the following:

a. Implementation and administration of the program.

b. Criteria for the selection of an administrative contractor for the program.

c. Qualifying standards for selecting participating insurers for the program.

d. The benefits to be included in a qualified child health plan which are those included in a benchmark or benchmark equivalent plan and which comply with Tit. XXI of the federal Social Security Act. Benefits covered shall include but are not limited to all of the following:

(1) Inpatient hospital services including medical, surgical, intensive care unit, mental health, and substance abuse services.

(2) Nursing care services including skilled nursing facility services.

(3) Outpatient hospital services including emergency room, surgery, lab, and x-ray services and other services.

(4) Physician services, including surgical and medical, and including office visits, newborn care, well-baby and well-child care, immunizations, urgent care, specialist care, allergy testing and treatment, mental health visits, and substance abuse visits.

(5) Ambulance services.

(6) Physical therapy.

(7) Speech therapy.

(8) Durable medical equipment.

(9) Home health care.

(10) Hospice services.

(11) Prescription drugs.

(12) Dental services including preventive services.

(13) Medically necessary hearing services.

(14) Vision services including corrective lenses.

(15) Translation and interpreter services as specified pursuant to the federal Children's Health Insurance Program Reauthorization Act of 2009, Pub. L. No. 111-3.

(16) Chiropractic services.

e. Presumptive eligibility criteria for the program. Beginning January 1, 2010, presumptive eligibility shall be provided for eligible children.

f. The amount of any cost sharing under the program which shall be assessed based on family income and which complies with federal law.

g. The reasons for disenrollment including, but not limited to, nonpayment of premiums, eligibility for medical assistance or other insurance coverage, admission to a public institution, relocation from the area, and change in income.

h. Conflict of interest provisions applicable to the administrative contractor and

participating insurers, and between public members of the board and the administrative contractor and participating insurers.

i. Penalties for breach of contract or other violations of requirements or provisions under the program.

j. A mechanism for participating insurers to report any rebates received to the department.

k. The data to be maintained by the administrative contractor including data to be collected for the purposes of quality assurance reports.

l. The use of provider guidelines in assessing the well-being of children, which may include the use of the bright futures for infants, children, and adolescents program as developed by the federal maternal and child health bureau and the American academy of pediatrics guidelines for well-child care.

9. a. The hawk-i board may provide approval to the director to contract with participating insurers to provide dental-only services. In determining whether to provide such approval to the director, the board shall take into consideration the impact on the overall program of single source contracting for dental services.

b. The hawk-i board may provide approval to the director to contract with participating insurers to provide the supplemental dental-only coverage to otherwise eligible children who have private health care coverage as specified in the federal Children's Health Insurance Program Reauthorization Act of 2009, Pub. L. No. 111-3.

98 Acts, ch 1196, §6, 16; 99 Acts, ch 208, §38; 2002 Acts, ch 1175, §37; 2003 Acts, ch 108, §131; 2003 Acts, ch 124, §2 – 7; 2003 Acts, ch 175, §39; 2007 Acts, ch 218, §106; 2008 Acts, ch 1156, §51, 58; 2008 Acts, ch 1188, §8, 9; 2009 Acts, ch 118, §28 – 31; 2010 Acts, ch 1133, §1; 2011 Acts, ch 34, §119; 2011 Acts, ch 120, §11; 2013 Acts, ch 138, §96, 97

Confirmation, see §2.32

#### **514I.6 Participating insurers.**

Participating insurers shall meet the qualifying standards established by rule under [this chapter](#) and shall perform all of the following functions:

1. Provide plan cards and membership booklets to qualifying families.
2. Provide or reimburse accessible, quality medical or dental services.
3. Require that any plan provided by the participating insurer establishes and maintains a conflict management system that includes methods for both preventing and resolving disputes involving the health or dental care needs of eligible children, and a process for resolution of such disputes.

4. Provide the administrative contractor with all of the following information pertaining to the participating insurer's plan:

- a. A list of providers of medical or dental services under the plan.
- b. Information regarding plan rules relating to referrals to specialists.
- c. Information regarding the plan's conflict management system.
- d. Other information as directed by the board.

5. Submit a plan for a health improvement program to the department, for approval by the board.

6. Develop a plan for provider network development including criteria for access to pediatric subspecialty services.

7. Permit any chiropractor licensed under [chapter 151](#) who is located in the geographic coverage area served by the plan and who agrees to abide by the plan's terms, conditions, reimbursement rates, and quality standards to serve as a participating provider in any plan offered to eligible children under [this chapter](#), including but not limited to a limited provider network plan as defined in [section 514C.13](#).

98 Acts, ch 1196, §7, 16; 2003 Acts, ch 108, §131; 2003 Acts, ch 124, §8; 2009 Acts, ch 118, §32, 33; 2010 Acts, ch 1133, §2

#### **514I.7 Administrative contractor.**

1. An administrative contractor shall be selected by the hawk-i board through a request for proposals process.

2. The administrative contractor shall do all of the following:

a. Determine eligibility for program enrollment as prescribed by federal law and regulation, using policies and procedures adopted by rule of the department pursuant to [chapter 17A](#). The administrative contractor shall not enroll a child who has group health coverage, unless expressly authorized by such rules.

b. Enroll qualifying children in the program with maintenance of a supporting eligibility file or database.

c. Utilize the department's eligibility system to maintain eligibility files with pertinent eligibility determination and ongoing enrollment information including but not limited to data regarding beneficiaries, enrollment dates, disenrollments, and annual financial redeterminations.

d. Provide electronic access to the administrative contractor's database to the department.

e. Provide periodic reports to the department for administrative oversight and monitoring of federal requirements.

f. Perform annual financial reviews of eligibility for each beneficiary.

g. Collect and track monthly family premiums to assure that payments are current.

h. Notify each participating insurer of new program enrollees who are enrolled by the administrative contractor in that participating insurer's plan.

i. Verify the number of program enrollees with each participating insurer for determination of the amount of premiums to be paid to each participating insurer.

j. Maintain data for the purpose of quality assurance reports as required by rule of the board.

98 Acts, ch 1196, §8, 16; 99 Acts, ch 208, §39; 2003 Acts, ch 108, §131; 2003 Acts, ch 124, §9, 10; 2008 Acts, ch 1188, §10; 2009 Acts, ch 118, §34; 2013 Acts, ch 138, §98, 99

#### **514I.8 Eligible child.**

1. a. Effective July 1, 1998, and notwithstanding any medical assistance program eligibility criteria to the contrary, medical assistance shall be provided to, or on behalf of, an eligible child under the age of nineteen whose family income does not exceed one hundred thirty-three percent of the federal poverty level, as defined by the most recently revised poverty income guidelines published by the United States department of health and human services.

b. Effective July 1, 2000, and notwithstanding any medical assistance program eligibility criteria to the contrary, medical assistance shall be provided to, or on behalf of, an eligible infant whose family income does not exceed two hundred percent of the federal poverty level, as defined by the most recently revised poverty income guidelines published by the United States department of health and human services.

c. Effective July 1, 2009, and notwithstanding any medical assistance program eligibility criteria to the contrary, medical assistance shall be provided to, or on behalf of, a pregnant woman or an eligible child who is an infant and whose family income is at or below three hundred percent of the federal poverty level, as defined by the most recently revised poverty income guidelines published by the United States department of health and human services.

2. A child may participate in the hawk-i program if the child meets all of the following criteria:

a. Is less than nineteen years of age.

b. Is a resident of this state.

c. Is a member of a family whose income does not exceed three hundred percent of the federal poverty level, as defined in 42 U.S.C. §9902(2), including any revision required by such section, and in accordance with the federal Children's Health Insurance Program Reauthorization Act of 2009, Pub. L. No. 111-3. The modified adjusted gross income methodology prescribed in section 2101 of the federal Patient Protection and Affordable Care Act, Pub. L. No. 111-148, shall be used to determine family income under this paragraph.

d. Is not eligible for medical assistance pursuant to [chapter 249A](#).

e. Is not currently covered under a group health plan as defined in 42 U.S.C. §300gg-91(a)(1) unless allowed by rule of the board.

f. Is not a member of a family that is eligible for health benefits coverage under a state

health benefits plan on the basis of a family member's employment with a public agency in this state.

g. Is not an inmate of a public institution or a patient in an institution for mental diseases.

3. In accordance with the rules adopted by the board, a child may be determined to be presumptively eligible for the program pending a final eligibility determination. Following final determination of eligibility, a child shall be eligible for a twelve-month period. At the end of the twelve-month period, a review of the circumstances of the child's family shall be conducted to establish eligibility and cost sharing for the subsequent twelve-month period.

4. Once an eligible child is enrolled in a plan, the enrollee may request to change plans within ninety days of initial enrollment for any reason and at any time for cause, as defined in 42 C.F.R. §438.56(d)(2). Otherwise, an enrollee may change plan enrollment once a year on the enrollee's anniversary date.

98 Acts, ch 1196, §9, 16; 98 Acts, ch 1223, §34; 2000 Acts, ch 1221, §8, 9; 2003 Acts, ch 108, §131; 2003 Acts, ch 124, §11; 2008 Acts, ch 1188, §11; 2009 Acts, ch 118, §17, 35; 2013 Acts, ch 138, §100 – 103; 2014 Acts, ch 1092, §115

Subsection 2, paragraph c amended

#### **514I.8A Hawk-i — all income-eligible children.**

The department shall provide coverage to individuals under nineteen years of age who meet the income eligibility requirements for the hawk-i program and for whom federal financial participation is or becomes available for the cost of such coverage.

2009 Acts, ch 118, §14

#### **514I.9 Program benefits.**

1. The hawk-i board shall review the benefits package annually and shall determine additions to or deletions from the benefits package offered. The hawk-i board shall submit the recommendations to the general assembly for any amendment to the benefits package.

2. Benefits, in addition to those required by rule, may be provided to eligible children by a participating insurer if the benefits are provided at no additional cost to the state.

98 Acts, ch 1196, §10, 16; 2003 Acts, ch 108, §131; 2010 Acts, ch 1061, §180; 2013 Acts, ch 138, §104

#### **514I.10 Cost sharing.**

1. Cost sharing for eligible children whose family income is below one hundred fifty percent of the federal poverty level shall not exceed the standards permitted under 42 U.S.C. §1396o(a)(3) or §1396o(b)(1).

2. Cost sharing for eligible children whose family income equals one hundred fifty percent but does not exceed two hundred percent of the federal poverty level may include a premium or copayment amount which does not exceed five percent of the annual family income. The amount of any premium or the copayment amount shall be based on family income and size.

3. Cost sharing for an eligible child whose family income exceeds two hundred percent but does not exceed three hundred percent of the federal poverty level may include copayments and graduated premium amounts which do not exceed the limitations of federal law.

4. The payment to and acceptance by an automated case management system or the department of the premium required under [this section](#) shall not automatically confer initial or continuing program eligibility on an individual. A premium paid to and accepted through the department's premium payment process that is subsequently determined to be untimely or to have been paid on behalf of an individual ineligible for the program shall be refunded to the remitter in accordance with rules adopted by the department.

98 Acts, ch 1196, §11, 16; 2000 Acts, ch 1221, §10; 2003 Acts, ch 124, §12; 2008 Acts, ch 1014, §4; 2008 Acts, ch 1188, §12; 2009 Acts, ch 118, §36; 2014 Acts, ch 1026, §115

Subsection 1 amended

#### **514I.11 Hawk-i trust fund.**

1. A hawk-i trust fund is created in the state treasury under the authority of the department of human services, in which all appropriations and other revenues of the program such as grants, contributions, and participant payments shall be deposited and used for the purposes

of the program. The moneys in the fund shall not be considered revenue of the state, but rather shall be funds of the program.

2. The trust fund shall be separate from the general fund of the state and shall not be considered part of the general fund of the state. The moneys in the trust fund are not subject to [section 8.33](#) and shall not be transferred, used, obligated, appropriated, or otherwise encumbered, except to provide for the purposes of [this chapter](#) and except as provided in [subsection 4](#). Notwithstanding [section 12C.7, subsection 2](#), interest or earnings on moneys deposited in the trust fund shall be credited to the trust fund.

3. Moneys in the fund are appropriated to the department and shall be used to offset any program costs.

4. The department may transfer moneys appropriated from the fund to be used for the purpose of expanding health care coverage to children under the medical assistance program.

5. The department shall provide periodic updates to the general assembly regarding expenditures from the fund.

[99 Acts, ch 203, §52; 2003 Acts, ch 108, §131; 2005 Acts, ch 175, §124, 125; 2008 Acts, ch 1188, §13; 2009 Acts, ch 118, §37](#)

**514I.12 Hawk-i expansion program.** Repealed by 2009 Acts, ch 118, §41.