



OFFICE OF THE GOVERNOR

THOMAS J. VILSACK
GOVERNOR

SALLY J. PEDERSON
LT. GOVERNOR

March 22, 2006

The Honorable Chester Culver
Secretary of State
State Capitol Building
L O C A L

Dear Mr. Secretary:

I hereby transmit:

House File 2543, an Act relating to nonsubstantive code corrections and including effective and retroactive applicability date provisions.

The above House File is hereby approved this date.

Sincerely,

A handwritten signature in black ink, appearing to read "Tom Vilsack".

Thomas J. Vilsack
Governor

TJV:jmc

cc: Secretary of the Senate
Chief Clerk of the House





HOUSE FILE 2543

AN ACT

RELATING TO NONSUBSTANTIVE CODE CORRECTIONS AND INCLUDING
EFFECTIVE AND RETROACTIVE APPLICABILITY DATE PROVISIONS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 2.1, Code 2005, is amended to read as follows:

2.1 SESSIONS -- PLACE.

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

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

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

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

3.14 CERTAIN APPROPRIATIONS PROHIBITED.

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

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

7.15 FEDERAL FUNDS FOR HIGHWAY SAFETY.

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

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

9G.12 DUBUQUE AND PACIFIC RAILROAD LANDS.

The secretary of state is hereby authorized upon the application of any person claiming title under the trust deeds executed by the Dubuque and Pacific Railroad Company, to secure its construction bonds, to any lands included in the list of lands certified to the state of Iowa, by the commissioner of the general land office and approved by the secretary of the interior, as selected to satisfy the grant made to the state of Iowa, by Act of Congress approved May 15, 1856 [~~11, 11~~ Stat. ~~57-9~~] 9, in aid of the construction of a railroad from Dubuque to Sioux City; to certify said land as inuring to the grantees of the said Dubuque and Pacific Railroad Company, which certificate shall be signed by the governor, and attested by the secretary of state, with the seal of the state, and deliver the same to such applicant who is hereby authorized to have said certificate recorded in the county in which the land so certified is situated, and when so recorded, shall be notice to all persons the same as deeds now are, and shall be evidence of the title from the state of Iowa to any person deriving title to said land under the Dubuque and Pacific Railroad Company, to the land therein described under the grant of Congress by which the land was certified to the state so far as the certified lists made by the

commissioner aforesaid, conferred title to the state, but where lands embraced in such lists are not of the character embraced by such Acts of Congress or the Acts of the general assembly of the state, and are not intended to be granted thereby, the lists so far as these lands are concerned, shall be void; nor shall the secretary include, in any of the lists so certified to the state, lands which have been adjudicated by the proper courts to belong to any other grant, or adjudicated to belong to any county or individual under the swampland grant, or any homestead or ~~pre-emption~~ preemption settlement; nor shall said certificate so issued confer any right or title as against any person or company having any vested right, either legal or equitable, to any of the lands so certified.

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

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

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

15.274 PROMOTIONAL PROGRAM FOR NATIONAL HISTORIC LANDMARKS AND CULTURAL AND ENTERTAINMENT DISTRICTS.

The department of economic development, in cooperation with the state department of transportation and the department of cultural affairs, shall establish and administer a program designed to promote knowledge of and access to buildings, sites, districts, structures, and objects located in this state that have been designated by the secretary of the interior of the United States as a national historic landmark, unless the national historic landmark is protected under

section 22.7, subsection 20, and certified cultural and entertainment districts, as established ~~in-2005-Iowa-Acts,-if enacted~~ pursuant to section 303.3B. The program shall be designed to maximize the visibility and visitation of national historic landmarks in this state and buildings, sites, structures, and objects located in certified cultural and entertainment districts, as established ~~in-2005-Iowa-Acts,-if enacted~~ pursuant to section 303.3B. Methods used to maximize the visibility and visitation of such locations may include the use of tourism literature, signage on highways, maps of the state and cities, and internet websites. For purposes of this section, "highway" means the same as defined in section 325A.1.

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

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

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

For the fiscal period beginning July 1, 2005, and ending June 30, 2015, there is appropriated each fiscal year from the grow Iowa values fund created in section 15G.108 to the department of economic development five million dollars for financial assistance to institutions of higher learning under the control of the state board of regents for capacity building infrastructure in areas related to technology commercialization, for marketing and business development efforts in areas related to technology commercialization, entrepreneurship, and business growth, and for infrastructure projects and programs needed to assist in the implementation of activities under chapter 262B~~-if-so-amended~~. In allocating moneys to institutions under the control of the

state board of regents, the board shall require the institutions to provide a one-to-one match of additional moneys for the activities funded with moneys appropriated under this subsection. The state board of regents shall annually prepare a report for submission to the governor, the general assembly, and the legislative services agency regarding the activities, projects, and programs funded with moneys appropriated under this subsection.

The state board of regents may allocate any moneys appropriated under this subsection and received from the department for financial assistance to a single biosciences development organization determined by the department to possess expertise in promoting the area of bioscience entrepreneurship. The organization must be composed of representatives of both the public and the private sector and shall be composed of subunits or subcommittees in the areas of existing identified biosciences platforms, education and workforce development, commercialization, communication, policy and governance, and finance. Such financial assistance shall be used for purposes of activities related to biosciences and bioeconomy development under chapter 262B, ~~if so-amended~~, and to accredited private universities in this state.

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

a. For the fiscal period beginning July 1, 2005, and ending June 30, 2015, there is appropriated each fiscal year from the grow Iowa values fund created in section 15G.108 to the department of economic development one million dollars for providing economic development region financial assistance under section 15E.232, subsections 3, ~~4~~ 5, and 6, 7, and 8, and under section 15E.233.

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

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

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

8. The net earnings of the authority, beyond that necessary for retirement of its notes, bonds or other obligations, or to implement the public purposes and programs herein authorized, shall not inure to the benefit of any

person other than the state. Upon termination of the existence of the authority, title to all property owned by the authority, including any such net earnings of the authority, shall vest in the state. The state reserves the right at any time to alter, amend, repeal, or otherwise change the structure, organization, programs or activities of the authority, including the power to terminate the authority, except that no law shall ever be passed impairing the obligation of any contract or contracts entered into by the authority to the extent that any such law would contravene Article I, section 21 of the Constitution of the ~~state~~ State of Iowa or Article I, section 10 of the Constitution of the United States.

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

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

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

such programs is to extend to rural areas the provisions of housing assistance payments programs.

6. The authority shall, when appropriate, take necessary steps to participate in the programs of federal assistance to state housing finance agencies for expanding the supply of housing available to low or moderate income families, as provided in section 802 of the Housing and Community Development Act of 1974 (~~Public Law 93-383~~), Pub. L. No. 93-383.

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

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

22.3 SUPERVISION -- FEES.

1. The examination and copying of public records shall be done under the supervision of the lawful custodian of the records or the custodian's authorized designee. The lawful custodian shall not require the physical presence of a person requesting or receiving a copy of a public record and shall fulfill requests for a copy of a public record received in writing, by telephone, or by electronic means. Fulfillment of a request for a copy of a public record may be contingent upon receipt of payment of expenses to be incurred in fulfilling the request and such estimated expenses shall be communicated to the requester upon receipt of the request. The lawful custodian may adopt and enforce reasonable rules regarding the examination and copying of the records and the protection of the records against damage or disorganization. The lawful custodian shall provide a suitable place for the examination and copying of the records, but if it is impracticable to do the examination and copying of the records in the office of the lawful custodian, the person desiring to examine or copy shall pay any necessary expenses of providing a place for the ~~work~~ examination and copying.

2. All expenses of the work examination and copying shall be paid by the person desiring to examine or copy. The lawful custodian may charge a reasonable fee for the services of the lawful custodian or the custodian's authorized designee in supervising the examination and copying of the records ~~during the-work~~. If copy equipment is available at the office of the lawful custodian of any public records, the lawful custodian shall provide any person a reasonable number of copies of any public record in the custody of the office upon the payment of a fee. The fee for the copying service as determined by the lawful custodian shall not exceed the actual cost of providing the service. Actual costs shall include only those expenses directly attributable to supervising the examination of and making and providing copies of public records. Actual costs shall not include charges for ordinary expenses or costs such as employment benefits, depreciation, maintenance, electricity, or insurance associated with the administration of the office of the lawful custodian.

Sec. 15. Section 28.4, subsection 14, Code Supplement 2005, is amended to read as follows:

14. With the assistance of the state departments represented on the Iowa empowerment board and the community empowerment office, develop and implement requirements for community empowerment areas and the state administrators of programs providing early care or early care services to annually report to the public and the early care staff designated pursuant to section 28.3 regarding the results produced by the community empowerment initiative and by the programs. Source data shall also be made available to the early care staff.

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

1. Two or more political subdivisions may create a port authority under this chapter by resolution. If a proposal to create a port authority receives a favorable majority of the members of the elected legislative body of each of the political ~~subdivision~~ subdivisions, the port authority is created at the time provided in the resolution. The jurisdiction of a port authority includes the territory described in section 28J.8.

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

a. Make loans for the acquisition or construction of the facility to such person upon such terms as the port authority may determine or authorize including secured or unsecured loans; and enter into loan agreements and other agreements, accept notes and other forms of obligation to evidence such indebtedness and mortgages, liens, pledges, assignments, or other security interests to secure such indebtedness, which may be prior or subordinate to or on a parity with other indebtedness, obligations, mortgages, pledges, assignments, other security interests, or liens or encumbrances, and take actions considered appropriate to protect such security and safeguard against losses, including, without limitation, foreclosure and the bidding upon and purchase of property upon foreclosure or other sale.

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

29A.3 UNITS OF GUARD.

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

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

29B.48 REFUSAL TO APPEAR OR TESTIFY.

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

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

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

3- c. Willfully neglects or refuses to appear, or refuses to qualify as a witness or to testify or to produce any evidence which that person has been legally subpoenaed to produce;

is-guilty-of-a-simple-misdemeanor.

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

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

29B.74 PRINCIPALS.

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

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

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

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

29B.80 FRAUDULENT ENLISTMENT -- APPOINTMENT OR SEPARATION.

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

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

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

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

29B.83 ABSENCE WITHOUT LEAVE.

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

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

2. Goes from that place~~er-er.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

29B.89 FAILURE TO OBEY ORDER OR REGULATION.

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

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

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

3. Is derelict in the performance of the person's duties~~;~~
~~shall-be-punished-as-a-court-martial-may-direct.~~

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

29B.95 NONCOMPLIANCE WITH PROCEDURAL RULES.

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

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

2. Knowingly and intentionally fails to enforce or comply with any provisions of this code regulating the proceedings before, during, or after trial of an accused~~;~~
~~shall-be-punished-as-a-court-martial-may-direct.~~

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

29B.96 MISBEHAVIOR BEFORE THE ENEMY.

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

1. Runs away~~;~~.

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

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

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

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

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

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

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

9. Does not afford all practicable relief and assistance to any troops, combatants, vessels, or aircraft of the armed forces belonging to the United States or their allies, to the state, or to any other state, when engaged in battle~~;~~
~~shall-be-punished-as-a-court-martial-may-direct.~~

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

29B.101 AIDING THE ENEMY.

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

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

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

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

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

29B.102 MISCONDUCT OF A PRISONER.

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

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

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

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

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

29B.109 MALINGERING.

Any person subject to this code who shall be punished as a court-martial may direct if the person for the purpose of

avoiding work, duty, or service in the state military forces does any of the following:

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

2. Intentionally inflicts self-injury~~;~~
~~shall-be-punished-as-a-court-martial-may-direct.~~

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

29B.113 FRAUDS AGAINST THE GOVERNMENT.

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

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

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

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

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

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

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

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

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

4. ~~Who~~ The person, being authorized to make or deliver any paper certifying the receipt of any property of the United States or the state, furnished or intended for the armed forces of the United States or the state military forces,

makes or delivers to any person such writing without having full knowledge of the truth of the statements therein contained and with intent to defraud the United States or the state;

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

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

29B.114 LARCENY AND WRONGFUL APPROPRIATION.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

b. When the general assembly by resolution designates a period after the federal decennial census is taken and before the next succeeding reapportionment of legislative districts required by Article III, section 35~~7~~ of the Constitution of the ~~state~~ State of Iowa as amended in 1968, during which precincts may be drawn without regard to the boundaries of existing legislative districts.

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

49.46 MARKING BALLOTS ON PUBLIC MEASURES.

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

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

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

For the purpose of this section, "state board" includes any board, commission, committee, council, or task force of the state government created by the ~~constitution~~ Constitution of the State of Iowa, or by statute, resolution of the general assembly, motion of the legislative council, executive order of the governor, or supreme court order, but does not include any such state board, commission, committee, council, or task force for which an annual salary is provided for its members. A person who is appointed to serve on a state board, upon written application to the person's employer, shall be granted leaves of absence from regular employment to attend the meetings of the state board, except if leaves of absence are prohibited by federal law. The leaves of absence may be granted without pay and shall be granted without loss of net credited service and benefits earned. This section does not

apply if the employer employs less than twenty full-time employees.

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

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

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

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

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

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

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

80.22 PROHIBITION ON OTHER DEPARTMENTS.

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

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

80.33 ACCESS TO DRUG RECORDS BY PEACE OFFICERS.

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

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

b. If an injured employee has a preexisting disability that was caused by a prior injury arising out of and in the course of employment with the same employer, and the preexisting disability was compensable under the same paragraph of ~~section-85-34~~, subsection 2, as the employee's present injury, the employer is liable for the combined disability that is caused by the injuries, measured in relation to the employee's condition immediately prior to the first injury. In this instance, the employer's liability for the combined disability shall be considered to be already partially satisfied to the extent of the percentage of disability for which the employee was previously compensated by the employer.

If, however, an employer is liable to an employee for a combined disability that is payable under ~~section-85-34~~, subsection 2, paragraph "u", and the employee has a preexisting disability that causes the employee's earnings to be less at the time of the present injury than if the prior

injury had not occurred, the employer's liability for the combined disability shall be considered to be already partially satisfied to the extent of the percentage of disability for which the employee was previously compensated by the employer minus the percentage that the employee's earnings are less at the time of the present injury than if the prior injury had not occurred.

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

1. DUTIES OF DEPARTMENT. The department shall establish and maintain free public employment services accessible to all Iowans for the purposes of this chapter, and for the purpose of performing the duties required by federal and state laws relating to employment and training including the Wagner-Peyser Act, 48 Stat. 57 113, codified at 29 U.S.C. § 49. All duties and powers conferred upon any other department, agency, or officer of this state relating to the establishment, maintenance, and operation of free employment services shall be vested in the department. This state accepts and shall comply with the provisions of the Wagner-Peyser Act, as amended. The department is designated and constituted the agency of this state for the purpose of the Wagner-Peyser Act. The department may cooperate with the railroad retirement board with respect to the establishment, maintenance, and use of department facilities. The railroad retirement board shall compensate the department for the services or facilities in the amount determined by the department to be fair and reasonable.

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

13. "Peace officer" means a member, except a non-peace officer member, of the division of state patrol, narcotics enforcement, state fire marshal, or criminal investigation, including but not limited to a gaming enforcement officer, who has passed a satisfactory physical and mental examination and has been duly appointed ~~as a member of~~ by the department of public safety in accordance with section 80.15.

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

1. All peace officer members of the division of state patrol and the division of criminal investigation or the

predecessor divisions or subunits in the department of public safety, excepting the members of the clerical force, who are employed by the state of Iowa on July 4, 1949, and all persons thereafter employed as members of such divisions or the predecessor divisions or subunits in the department of public safety or division of narcotics enforcement or division of state fire marshal or the predecessor divisions or subunits, except the members of the clerical force, shall be members of this system, except as otherwise provided in subsection 3. Effective July 1, 1994, gaming enforcement officers employed by the division of criminal investigation for excursion boat gambling enforcement activities and fire prevention inspector peace officers employed by the department of public safety shall be members of this system, except as otherwise provided in subsection 3 or section 97B.42B. Such members shall not be required to make contributions under any other pension or retirement system of the state of Iowa, anything to the contrary notwithstanding.

Sec. 49. Section 99G.8, subsection 15, Code 2005, is amended to read as follows:

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

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

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

Sec. 51. Section 123.53, subsection 3, Code Supplement 2005, is amended to read as follows:

3. The treasurer of state shall transfer into a special revenue account in the general fund of the state, a sum of money at least equal to seven percent of the gross amount of sales made by the division from the beer and liquor control fund on a monthly basis but not less than nine million dollars annually, and any amounts so transferred shall be used by the

~~substance-abuse-division-of-the~~ Iowa department of public health staff who administer the comprehensive substance abuse program under chapter 125 for substance abuse treatment and prevention programs in an amount determined by the general assembly and any amounts received in excess of the amounts appropriated to the ~~substance-abuse-division-of-the~~ Iowa department of public health for use by the staff who administer the comprehensive substance abuse program under chapter 125 shall be considered part of the general fund balance.

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

3. "Hospital" means a place which is devoted primarily to the maintenance and operation of facilities for the diagnosis, treatment or care over a period exceeding twenty-four hours of two or more nonrelated individuals suffering from illness, injury, or deformity, or a place which is devoted primarily to the rendering over a period exceeding twenty-four hours of obstetrical or other medical or nursing care for two or more nonrelated individuals, or any institution, place, building or agency in which any accommodation is primarily maintained, furnished or offered for the care over a period exceeding twenty-four hours of two or more nonrelated aged or infirm persons requiring or receiving chronic or convalescent care; and shall include sanatoriums or other related institutions within the meaning of this chapter. Provided, however, nothing in this chapter shall apply to hotels or other similar places that furnish only food and lodging, or either, to their guests or to a freestanding hospice facility which operates a hospice program in accordance with 42 C.F.R. § 418.

"Hospital" shall include, in any event, any facilities wholly or partially constructed or to be constructed with federal financial assistance, pursuant to ~~Public Law 7257-79th~~ Congress Pub. L. No. 79-725, 60 Stat. 1040, approved August 13, 1946.

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

7. This chapter shall not be construed to impose civil liability or criminal sanctions for disclosure of HIV-related test results in accordance with any reporting requirement for a diagnosed case of AIDS or a related condition by the

department or the centers for disease control and prevention of the United States ~~public-health-service~~ department of health and human services.

Sec. 54. Section 147.7, unnumbered paragraph 2, Code Supplement 2005, is amended to read as follows:

This section shall not apply to a person who is licensed in another state and recognized for licensure in this state pursuant to the nurse licensure compact contained in section 152E.1 or pursuant to the advanced practice registered nurse compact contained in section 152E.3. A person licensed in another state and recognized for licensure in this state pursuant to ~~the~~ either compact shall, however, maintain a copy of a license issued by the person's home state available for inspection when engaged in the practice of nursing in this state.

Sec. 55. Section 152D.4, subsection 1, Code 2005, is amended to read as follows:

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

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

163.27 BOILING GARBAGE.

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

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

176A.2 DECLARATION OF POLICY.

It is the policy of the legislature to provide for aid in disseminating among the people of Iowa useful and practical

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

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

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

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

3. As part of the council's education programs or projects, ~~it~~ the council may provide for the dissemination of information of public interest, including but not limited to the development or publication of materials in a printed or electronic format.

Sec. 60. Section 191.2, subsection 9, paragraph b, Code 2005, is amended to read as follows:

b. When such milk and milk products do not conform to their definitions as contained in this chapter and chapters 190~~7--191~~ and 192.

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

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

of this chapter in order to authorize the state to implement the provisions of the federal Surface Mining Control and Reclamation Act of 1977 and federal regulations and guidelines issued pursuant to that Act.

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

2. The requirements of this section do not apply to lands on which coal mining operations are being conducted as of August 3, 1977, or under a permit issued pursuant to this chapter or pursuant to section 83A.12 ~~of the, Code~~ 1979, Code or where substantial legal and financial commitments in an operation were in existence prior to January 4, 1977.

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

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

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

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

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

a. The involuntary retirement of a person who has attained the age of sixty-five and has for the two prior years been employed in a bona fide executive or high policy-making position and who is entitled to an immediate, nonforfeitable annual retirement benefit from a pension, profit-sharing,

savings or deferred compensation plan of the employer which equals twenty-seven thousand dollars. This retirement benefit test may be adjusted according to the regulations prescribed by the United States secretary of labor pursuant to ~~Public Law~~ Pub. L. No. 95-256, section 3.

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

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

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

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

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

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

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

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

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

The department shall establish by rule, in accordance with chapter 17A, minimum standards for certification and monitoring of elder group homes. The department may adopt by reference, with or without amendment, nationally recognized

standards and rules for elder group homes. The standards and rules shall be formulated in consultation with the department of inspections and appeals and affected industry, professional, and consumer groups, and shall be designed to accomplish the purposes of this chapter, and shall include but not be limited to rules relating to all of the following:

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

231B.13 RETALIATION BY ELDER GROUP HOME PROHIBITED.

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

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

The department shall establish by rule in accordance with chapter 17A minimum standards for certification and monitoring of assisted living programs. The department may adopt by reference with or without amendment, nationally recognized standards and rules for assisted living programs. The rules shall include specification of recognized accrediting entities and provisions related to dementia-specific programs. The standards and rules shall be formulated in consultation with the department of inspections and appeals and affected industry, professional, and consumer groups, and shall be designed to accomplish the purposes of this chapter, and shall include but are not limited to rules relating to all of the following:

Sec. 73. Section 231C.13, Code 2005, is amended to read as follows:

231C.13 RETALIATION BY ASSISTED LIVING PROGRAM PROHIBITED.

An assisted living program shall not discriminate or retaliate in any way against a tenant, tenant's family, or an employee of the program who has initiated or participated in any proceeding authorized by this chapter. An assisted living

program that violates this section is subject to a penalty as established by administrative rule in accordance with chapter 17A, ~~and~~ to be assessed and collected by the department of inspections and appeals, ~~and~~ paid into the state treasury ~~to be,~~ and credited to the general fund of the state.

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

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

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

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

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

3. A facility's quality rating may be included on the internet ~~page~~ webpage and in the consumer information provided by the department pursuant to section 237A.25 and shall be identified in the child care provider referrals made by child care resource and referral service grantees under section 237A.26.

Sec. 77. Section 249.1, subsection 3, Code Supplement 2005, is amended to read as follows:

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

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

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

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

257B.12 BONDS TO COVER LOSSES.

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

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

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

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

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

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

The state department of transportation shall adopt rules, pursuant to chapter 17A, embodying a utility accommodation policy which imposes reasonable restrictions on placements occurring on or after the effective date of the rules, on primary road rights-of-way. The rules may require utilities to give notice to the department prior to installation of a utility system on a primary road right-of-way and obtain prior permission from the department for the proposed installation. The rules shall recognize emergency situations and the need

for immediate installation of service extensions subject to the standards adopted by the department and the utilities board. The rules shall be no less stringent than the standards adopted by the utilities board pursuant to chapters 478, 479, and 479B. This paragraph shall not be construed as granting the department authority which has been expressly granted to the utilities board to determine the route of utility installations. If the department requires a utility company permit, the department shall be required to act upon the permit application within thirty days of its filing. In cases of federal-aid highway projects on nonprimary highways, the local authority with jurisdiction over the highway and the department shall comply with all federal regulations and statutes regarding utility accommodation.

Sec. 83. Section 306C.24, subsection 2, Code 2005, is amended to read as follows:

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

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

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

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

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

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

The Iowa county engineers association service bureau shall annually compute the secondary road fund and farm-to-market road fund distributions using the methodology determined by the secondary road fund distribution committee pursuant to section 312.3C. The Iowa county engineers association service bureau shall report the computations to the secondary road fund distribution committee, the department, the treasurer of state, and the counties.

Sec. 87. Section 321.10, unnumbered paragraph 2, Code 2005, is amended to read as follows:

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

Sec. 88. Section 321.69, subsection 9, Code Supplement 2005, is amended to read as follows:

9. Except for subsections 10 and 11, this section does not apply to motor trucks and truck tractors with a gross vehicle weight rating of sixteen thousand pounds or more, vehicles more than seven model years old, motorcycles, motorized bicycles, and special mobile equipment. This section does apply to motor homes. The requirement in subsection 1 that the new certificate of title and registration receipt shall state on the face ~~of-the-title~~ whether a prior owner had disclosed that the vehicle was damaged to the extent that it was a wrecked or salvage vehicle as defined in section 321.52, subsection 4, paragraph "d", does not apply to a vehicle with a certificate of title bearing a designation that the vehicle

was previously titled on a salvage certificate of title pursuant to section 321.52, subsection 4, paragraph "b", or to a vehicle with a certificate of title bearing a "REBUILT" or "SALVAGE" designation pursuant to section 321.24, subsection 4 or 5. Except for subsections 10 and 11, this section does not apply to new motor vehicles with a true mileage, as defined in section 321.71, of one thousand miles or less, unless such vehicle has incurred damage as described in subsection 2.

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

321.210C PROBATION PERIOD.

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

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

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

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

3. The state department of transportation, in cooperation with the judicial branch, shall adopt rules, pursuant to the procedure in section 125.33, regarding the assignment of persons ordered under section 321J.17 to submit to substance abuse evaluation and treatment. The rules shall be applicable only to persons other than those committed to the custody of the director of the department of corrections under section 321J.2. The rules shall be consistent with the practices and procedures of the judicial branch in sentencing persons to substance abuse evaluation and treatment under section 321J.2. The rules shall include the requirement that the treatment

programs utilized by a person pursuant to an order of the department meet the licensure standards of the ~~division of substance-abuse-for-the~~ department of public health for substance abuse treatment programs under chapter 125. The rules shall also include provisions for payment of costs by the offenders, including insurance reimbursement on behalf of offenders, or other forms of funding, and shall also address reporting requirements of the facility, consistent with the provisions of sections 125.84 and 125.86. The department shall be entitled to treatment information contained in reports to the department, notwithstanding any provision of chapter 125 that would restrict department access to treatment information and records.

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

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

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

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

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

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

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

364.1 SCOPE.

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

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

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

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

7. Notwithstanding any other provisions of this chapter, where the local governing body certifies that an area is in need of redevelopment or rehabilitation as a result of a flood, fire, hurricane, earthquake, storm, or other catastrophe respecting which the governor of the state has certified the need for disaster assistance under Pub. L. No. 875 ~~81-875~~, Eighty-first Congress, 64 Stat. ~~11097~~, codified at 42 U.S.C. § ~~1855-1855g~~ 1855--1855g or other federal law, the local governing body may approve an urban renewal plan and an urban renewal project with respect to such area without regard to the provisions of subsection 4 and without regard to provisions of this section requiring notification and consultation, a general plan for the municipality, and a public hearing on the urban renewal plan or project.

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

414.14 VOTE REQUIRED.

The concurring vote of three members of the board in the case of a five-member board, and four members in the case of a seven-member board, and five members in the case of a nine-member board, shall be necessary to reverse any order, requirement, decision, or determination of any such administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under any such ordinance or to effect any variation in such ordinance.

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

421.1 STATE BOARD OF TAX REVIEW.

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

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

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

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

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

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

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

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

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

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

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

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

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

~~The affected taxpayer and the department shall be given at least fifteen days' written notice by the board of the date the appeal shall be heard and both parties may be present at~~

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

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

5. e. Adopt a long-range program for the state system of tax reform based upon special studies, surveys, research, and recommendations submitted by or proposed under the direction of the director of revenue.

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

6. 5. Upon its own motion or upon appeal by any affected taxpayer, the state board shall review the record evidence and the decisions of, and any orders or directive issued by, the director of revenue for the identification of taxable property, classification of property as real or personal, or for assessment and collection of taxes by the department or an order to reassess or to raise assessments to any local assessor, and shall affirm, modify, reverse, or remand them

within sixty days from the date the case is submitted to the board for decision. For an appeal to the board to be valid, written notice must be given to the department within thirty days of the rendering of the decision, order, or directive from which the appeal is taken. The director shall certify to the board the record, documents, reports, audits, and all other information pertinent to the decision, order, or directive from which the appeal is taken.

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

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

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

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

422.1 CLASSIFICATION OF CHAPTER.

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

Division I Introductory provisions.

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

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

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

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

422.75 STATISTICS -- PUBLICATION.

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

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

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

A tax of five percent is imposed upon the sales price for the ~~rental~~ renting of any lodging if the ~~rental~~ renting occurs in this state. The tax shall be collected by any lessor of lodging from the user of that lodging. The lessor shall add

the tax to the sales price of the lodging, and the state-imposed tax, when collected, shall be stated as a distinct item, separate and apart from the sales price of the lodging and the local tax imposed, if any, under section 423A.4.

Sec. 104. Section 423B.5, unnumbered paragraph 1, Code Supplement 2005, is amended to read as follows:

A local sales and services tax at the rate of not more than one percent may be imposed by a county on the sales price taxed by the state under chapter 423, subchapter II. A local sales and services tax shall be imposed on the same basis as the state sales and services tax or in the case of the use of natural gas, natural gas service, electricity, or electric service on the same basis as the state use tax and shall not be imposed on the sale of any property or on any service not taxed by the state, except the tax shall not be imposed on the sales price from the sale of motor fuel or special fuel as defined in chapter 452A which is consumed for highway use or in watercraft or aircraft if the fuel tax is paid on the transaction and a refund has not or will not be allowed, on the sales price from the sale of equipment by the state department of transportation, ~~and-except-the-tax-shall-not-be imposed~~ or on the sales price from the sale or use of natural gas, natural gas service, electricity, or electric service in a city or county where the sales price from the sale of natural gas or electric energy is subject to a franchise fee or user fee during the period the franchise or user fee is imposed. A local sales and services tax is applicable to transactions within those incorporated and unincorporated areas of the county where it is imposed and shall be collected by all persons required to collect state sales taxes. All cities contiguous to each other shall be treated as part of one incorporated area and the tax would be imposed in each of those contiguous cities only if the majority of those voting in the total area covered by the contiguous cities favors its imposition.

Sec. 105. Section 423E.3, subsection 2, Code Supplement 2005, is amended to read as follows:

2. The tax shall be imposed on the same basis as the state sales and services tax or in the case of the use of natural gas, natural gas service, electricity, or electric service on the same basis as the state use tax and shall not be imposed

on the sale of any property or on any service not taxed by the state, except the tax shall not be imposed on the sales price from the sale of motor fuel or special fuel as defined in chapter 452A which is consumed for highway use or in watercraft or aircraft if the fuel tax is paid on the transaction and a refund has not or will not be allowed, on the sales price from the sale of equipment by the state department of transportation, ~~and-except-the-tax-shall-not-be imposed~~ or on the sales price from the sale or use of natural gas, natural gas service, electricity, or electric service in a city or county where the sales price from the sale of natural gas or electric energy is subject to a franchise fee or user fee during the period the franchise or user fee is imposed.

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

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

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

426A.6 SETTING ASIDE ALLOWANCE.

If the director of revenue determines that a claim for military service tax exemption has been allowed by a board of supervisors which is not justifiable under the law and not substantiated by proper facts, the director may, at any time within thirty-six months from July 1 of the year in which the claim is allowed, set aside the allowance. Notice of the disallowance shall be given to the county auditor of the

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

Sec. 108. Section 426A.13, unnumbered paragraph 1, Code Supplement 2005, is amended to read as follows:

A person named in section 426A.11, who is a resident of and domiciled in the state of Iowa, shall receive a reduction equal to the exemption, to be made from any property owned by the person or owned by a family farm corporation of which the person is a shareholder and ~~who occupies~~ occupant of the property and so designated by proceeding as provided in the section. To be eligible to receive the exemption the person claiming it shall have recorded in the office of the county recorder of the county in which is located the property designated for the exemption, evidence of property ownership by that person or the family farm corporation of which the person is a shareholder and the military certificate of satisfactory service, order transferring to inactive status, reserve, retirement, order of separation from service, honorable discharge or a copy of any of these documents of the person claiming or through whom is claimed the exemption. In the case of a person claiming the exemption as a veteran

described in section 35.1, subsection 2, paragraph "b", subparagraph (6) or (7), the person shall file the statement required by section 35.2.

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

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

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

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

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

432.12F ECONOMIC DEVELOPMENT REGION REVOLVING FUND CONTRIBUTION TAX CREDITS.

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

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

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

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

e. Notwithstanding the provisions of this section, if during the tax year a person who was not a taxpayer during the prior tax year acquires a new major addition, as defined in section 437A.3, subsection 18, paragraph "a", subparagraph (4), the replacement tax associated with that major addition shall be allocated, for that tax year, under this section in

accordance with the general allocating formula on the basis of the general property tax equivalents established under ~~section 437A.15~~ paragraph "a" of this subsection, except that the levy rates established and reported to the department of management on or before June 30 following the tax year in which the major addition was acquired shall be applied to the prorated assessed value of the major addition and provided that section 437A.19, subsection 2, paragraph "b", subparagraph (2), is in any event applicable. For purposes of this paragraph, "prorated assessed value of the major addition" means the assessed value of the major addition as of January 1 of the year following the tax year in which the major addition was acquired multiplied by the percentage derived by dividing the number of months that the major addition existed during the tax year by twelve, counting any portion of a month as a full month.

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

4. The titleholder may make written request to the treasurer to have the tax statement delivered to a person or entity in lieu of to the titleholder. A fee shall not be charged by the treasurer for delivering the tax statement to such person or entity in lieu of to the titleholder.

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

Service of the notice shall also be made by mail on any mortgagee having a lien upon the parcel, a vendor of the parcel under a recorded contract of sale, a lessor who has a recorded lease or memorandum of a recorded lease, and any other person who has an interest of record, at the person's last known address, if the mortgagee, vendor, lessor, or other person has filed a request for notice, as prescribed in section 446.9, subsection 3, and on the state of Iowa in case of ~~an a~~ an old-age supplementary assistance lien by service upon the department of human services. The notice shall also be served on any city where the parcel is situated. Failure to receive a mailed notice is not a defense to the payment of the total amount due.

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

446.38 SUSPENDED TAXES OF OLD-AGE SUPPLEMENTARY ASSISTANCE RECIPIENTS.

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

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

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

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

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

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

456A.27 FEDERAL WILDLIFE ACT -- ASSENT.

The state of Iowa assents to the provisions of the Act of Congress entitled "An Act to provide that the United States shall aid the states in wildlife restoration projects, and for other purposes", approved September 2, 1937, 50 Stat. 57 917, and the department may perform acts as necessary to the

conduct and establishment of ~~co-operative~~ cooperative wildlife restoration projects, as defined in the Act of Congress, in compliance with the Act and with regulations promulgated by the secretary of agriculture under the Act. No funds accruing to the state of Iowa from license fees paid by hunters shall be diverted for any other purpose than as set out in sections 456A.17 and 456A.19.

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

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

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

b. The board shall ~~consist-of~~ also include four members of the general assembly who shall serve as voting members. Not more than one member from each house shall be from the same political party. Two state senators shall be appointed, one by the majority leader of the senate and one by the minority leader of the senate. Two state representatives shall be appointed, one by the speaker of the house of representatives and one by the minority leader of the house of representatives. A member may designate another person to attend a board meeting if the member is unavailable. Only the member is eligible for per diem and expenses as provided in section 2.10.

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

468.378 BANKRUPTCY PROCEEDINGS.

All drainage districts with pumping plant and levee, which have power to incur indebtedness, through action of their own governing bodies are hereby authorized to proceed under and take advantage of all laws enacted by the Congress of the United States under the federal bankruptcy powers, which laws have for their object the relief of municipal indebtedness, including 48 Stat. ~~57-eh~~ 345, entitled "An Act to amend an Act entitled 'An Act to establish a uniform system of bankruptcy throughout the United States', approved July 1, 1898, and Acts amendatory thereof and supplementary thereto", approved May 24, 1934, and the officials and governing bodies of such drainage, pumping plant and levee districts, are authorized to

adopt all proceedings and to do any and all acts necessary or convenient to fully avail such drainage, pumping plant, and levee districts, of the provisions of such Acts of Congress.

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

In addition to other services or facilities previously deregulated, effective July 1, 2005, and at the election of each telephone utility subject to rate regulation, the jurisdiction of the board is not applicable to the retail rate regulation of business and retail local exchange services provided throughout the state except for single line flat-rated residential and business service rates provided by a telephone utility subject to rate regulation on January 1, 2005. For each such telephone utility, the initial single line flat-rated residential and business service rates shall be the corresponding rates charged by the utility as of January 31, 2005. The initial single line flat-rated residential monthly service rates may be increased by an amount not to exceed one dollar per twelve-month period beginning July 1, 2005, and ending June 30, 2008. The initial single line flat-rated business monthly service rates may be increased by an amount not to exceed two dollars per twelve-month period beginning July 1, 2005, and ending June 30, 2008. However, the single line flat-rated residential service rate shall not exceed nineteen dollars per month and the single line flat-rated business service rate shall not exceed thirty-eight dollars per month prior to July 1, 2008, not including charges for extended area service, regulatory charges, taxes, and other fees. Each telephone utility's extended area service rates shall not be greater than the corresponding rates charged by the telephone utility as of January 31, 2005. The board shall determine a telephone utility's extended area service rates for new extended area service established on or after July 1, 2005. If a telephone utility fails to impose the rate increase during any twelve-month period, the utility shall not impose the unused increase in any subsequent year. In addition to the rate increases permitted pursuant to this section, the telephone utility may adjust its single line flat-rated residential and business service rates by a percentage equal to the most recent annual

percentage change in the gross domestic product price index as published by the federal government. The board may also authorize additional changes in the monthly rates for single line flat-rated residential and business services to reflect exogenous factors beyond the control of the telephone utility.

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

481B.2 COOPERATION WITH FEDERAL GOVERNMENT.

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

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

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

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

b. The instrument shall be delivered to the secretary of state for filing and recording in the secretary of state's office. If the corporation was organized under chapter ~~176~~,

5247 or 533, the instrument shall also be filed and recorded in the office of the county recorder. The corporation shall at the time it files the instrument with the secretary of state deliver also to the secretary of state for filing in the secretary of state's office any biennial report which is then due.

If the county of the initial registered office as stated in the instrument for a corporation organized under chapter 1767 5247 or 533 is one which is other than the county where the principal place of business of the corporation, as designated in its articles of incorporation, was located, the corporation shall forward to the county recorder of the county in which the principal place of business of the corporation was located a copy of the instrument and the corporation shall forward to the recorder of the county in which the initial registered office of the corporation is located, in addition to a copy of the original instrument, a copy of the articles of incorporation of the corporation together with all amendments to them as then on file in the secretary of state's office. The corporation shall, through an officer or director, certify to the secretary of state that a copy has been sent to each applicable county recorder, including the date each copy was sent.

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

490A.1201 CONSTITUENT ENTITY.

~~As-used-in-this-section,-unless~~ Unless the context otherwise requires, "constituent entity", as used in sections 490A.1202, 490A.1204, 490A.1205, and 490A.1207, includes a domestic cooperative. However, as used in section 490A.1203, "constituent entity" does not include a domestic cooperative.

Sec. 128. Section 501A.504, subsection 4, unnumbered paragraph 1, Code Supplement 2005, is amended to read as follows:

An amendment of the articles shall be filed with the secretary as required in section ~~501A.503~~ 501A.201. The amendment is effective as provided in subchapter II. After an amendment to the articles of organization has been adopted and approved in the manner required by this chapter and by the articles of organization, the cooperative shall deliver to the secretary of state for filing articles of amendment which shall set forth all of the following:

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

2. DEALING IN PRODUCTS. A cooperative may buy, sell, or deal in its own commodities or products or those of another person, including but not limited to those of its members, patrons, or nonmembers; or commodities or products of another cooperative organized under this chapter or another cooperative association organized under other law including a traditional cooperative, or members or patrons of such cooperatives or cooperative associations. A cooperative may negotiate the price at which its commodities or products may be sold.

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

Subject to the provisions of subsection 4, a cooperative shall indemnify a person made or threatened to be made a party to a proceeding by reason of the former or present official capacity of the person against judgments, penalties, and fines, including, without limitation, excise taxes assessed against the person with respect to an employee benefit plan, settlements, and reasonable expenses, including attorney fees and disbursements incurred by the person in connection with the proceeding, if, with respect to the acts or omissions of the person complained of in the proceeding, any of the following applies:

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

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

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

c. The manner and basis of converting membership or ownership interests of the constituent domestic cooperative, the ~~surviving~~ Iowa limited liability company that is a party as provided in section 490A.1207, or foreign business entity into membership or ownership interests in the surviving or new domestic cooperative, the surviving Iowa limited liability

company as authorized in section 490A.1207, or foreign business entity.

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

a. A traditional cooperative ~~organized~~ may convert to a cooperative and become subject to this chapter by amending its organizational documents to conform to the requirements of this chapter.

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

In furtherance of such state interest, the general assembly herein provides methods for substituted service of process upon such persons or insurers in any proceeding, suit or action in any court and substitute service of any notice, order, pleading or process upon such persons or insurers in any proceeding before the commissioner of insurance to enforce or effect full compliance with the insurance and tax laws of this state. In so doing, the state exercises its powers to protect residents of this state and to define what constitutes doing an insurance business in this state, and also exercises powers and privileges available to this state by virtue of ~~Public-Law~~ Pub. L. No. 79-15, 79th Congress of the United States, Chapter 20, 1st Sess., S. 340, 59 Stat. 5- 337, codified at 15 U.S.C. § 1011-to-1015,--inclusive 1011--1015, which declares that the business of insurance and every person engaged therein shall be subject to the laws of the several states.

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

507B.1 DECLARATION OF PURPOSE.

The purpose of this chapter is to regulate trade practices in the business of insurance in accordance with the intent of Congress as expressed in the Act of Congress of March 9, 1945, ~~Public-Law-157--79th-Congress~~ Pub. L. No. 79-15, 59 Stat. 5- 337, codified at 15 U.S.C. § 1011-to-1015,--inc- 1011--1015, by defining, or providing for the determination of, all such practices in this state which constitute unfair methods of competition or unfair or deceptive acts or practices and by prohibiting the trade practices so defined or determined.

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

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

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

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

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

The terms "class I railroads", "balance of income available for the payment of fixed charges", "fixed charges" and "railway operating revenues" when used in this subsection, are to be given the same meaning as in the accounting reports filed by a railroad company in accordance with the regulations for common carriers by rail of the Interstate Commerce Act, 24 Stat. 379, codified at 49 U.S.C. § 1-40-inc-7-1001 to-1100-inc- 1--40, 1001--1100, provided that the "balance of income available for the payment of fixed charges" and "railway operating revenues remaining", as the terms are used in this subsection, shall be computed before deduction of federal income or excess profits taxes; and that in computing "fixed charges" there shall be excluded interest and amortization charges applicable to debt called for redemption

or which will otherwise mature within six months from the time of investment and for the payment of which funds have been or currently are being specifically set aside.

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

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

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

512B.13 INSTITUTIONS.

A society may create, maintain, and operate, or may establish organizations to operate, not-for-profit institutions to further the purposes permitted by section 512B.5, subsection 1, paragraph "b". The institutions may furnish services free or at a reasonable charge. Any real or personal property owned, held, or leased by the society for this purpose shall be reported in every annual statement. A not-for-profit institution so established is a charitable institution with all the rights, benefits, and privileges given to charitable institutions under the ~~constitution~~ Constitution and laws of ~~this-state~~ the State of Iowa. The commissioner may adopt appropriate rules and reporting requirements.

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

Upon receipt of an application for a certificate of authority, the commissioner shall immediately transmit copies of the application and accompanying documents to the director of public health and the affected regional health planning council, as authorized by ~~Public-Law~~ Pub. L. No. 89-749, ~~†42~~

42 U.S.C. § 246(b) ~~2b)~~ 2b, for their nonbinding consultation and advice.

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

a. UNITED STATES GOVERNMENT OBLIGATIONS. Bonds or other evidences of indebtedness issued, assumed, or guaranteed by the United States of America, or by any agency or instrumentality of the United States of America, ~~include~~ including investments in an open-end management investment company registered with the federal securities and exchange commission under the federal Investment Company Act of 1940, 15 U.S.C. § 80(a) and operated in accordance with 17 C.F.R. § 270.2a-7, the portfolio of which is limited to the United States obligations described in this paragraph, and which are included in the national association of insurance commissioners' securities valuation office's United States direct obligation--full faith and credit list.

Sec. 142. Section 518A.12, subsection 4, paragraph a, Code Supplement 2005, is amended to read as follows:

a. UNITED STATES GOVERNMENT OBLIGATIONS. Bonds or other evidences of indebtedness issued, assumed, or guaranteed by the United States of America, or by any agency or instrumentality of the United States of America, ~~include~~ including investments in an open-end management investment company registered with the federal securities and exchange commission under the federal Investment Company Act of 1940, 15 U.S.C. § 80(a) and operated in accordance with 17 C.F.R. § 270.2a-7, the portfolio of which is limited to the United States obligations described in this paragraph, and which are included in the national association of insurance commissioners' securities valuation office's United States direct obligation--full faith and credit list.

Sec. 143. Section 518B.1, subsection 3, Code 2005, is amended to read as follows:

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

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

523.13 EXCEPTIONS AS TO DOMESTIC STOCK COMPANIES.

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

1. The securities shall-be are registered, or ~~shall-be~~ are required to be registered, pursuant to section 12 of the Securities Exchange Act of 1934, ~~{48 48 Stat. E- 881, 15 U.S.C. 7 § 77b et seq.}~~ seq., as amended, ~~-or-if-(2)-such.~~

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

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

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

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

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

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

3. If a foreign person does not have a registered agent or agents in the state of Iowa, doing business within this state shall constitute the person's appointment of the secretary of state of the state of Iowa to be ~~its~~ the person's true and lawful attorney upon whom may be served all lawful process of original notice in actions or proceedings arising or growing out of any contract or tort.

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

523I.601 SETTLEMENT OF ESTATES -- MAINTENANCE FUND.

The court in which the estate of a deceased person is administered, before final distribution, may allow and set apart from the estate a sum sufficient to provide an income adequate to pay for the perpetual care and upkeep of the interment ~~spaces-upon~~ space in which the body of the deceased is buried, except where perpetual care has otherwise been

provided for. The sum so allowed and set apart shall be paid to a trustee as provided by this chapter.

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

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

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

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

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

591.11 FAILURE TO PUBLISH NOTICE OF AMENDMENT.

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

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

In any order or judgment entered under this chapter or chapter 234, 252A, 252C, 252F, 598~~7~~ or 600B, or under any other chapter which provides for temporary or permanent support payments, if the parent ordered to pay support is less than eighteen years of age, one of the following shall apply:

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

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

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

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

15. ESTATE -- the real and personal property of either a decedent or a ward, and may also refer to the real and personal property of a trust ~~as-defined~~ described in section 633.10.

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

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

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

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

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

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

633.699B APPLICABILITY OF LAW.

The terms of this division, and all other terms of this probate code relating to trusts and trustees, shall apply only to trusts that remain under continuous court supervision pursuant to section 633.10 and to trusts that have not been released from such continuous supervision pursuant to section 633.10. Regarding all such trusts, the terms of this chapter shall supersede any inconsistent terms in the trust code, chapter 633A, and such trusts shall be governed by terms of the trust code, chapter 633A, that are not inconsistent with this probate code.

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

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

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

1. Except as otherwise provided in section 679C.106, a mediation communication is privileged as provided in subsection 2 and is not subject to discovery or admissible in evidence in a proceeding unless the privilege is waived or precluded as provided by section 679C.105.

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

ARTICLE VIII -- MISCELLANEOUS PROVISIONS

(a) RELATION OF COMPACT TO CERTAIN FBI ACTIVITIES.

Administration of this compact shall not interfere with the management and control of the director of the FBI over the FBI's collection and dissemination of criminal history records and the advisory function of the FBI's advisory policy board chartered under the Federal Advisory Committee Act, 45 5 U.S.C. App. 5 App., for all purposes other than noncriminal justice.

(b) NO AUTHORITY FOR NONAPPROPRIATED EXPENDITURES.

Nothing in this compact shall require the FBI to obligate or expend funds beyond those appropriated to the FBI.

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

ARTICLE XI -- ADJUDICATION OF DISPUTES

(a) IN GENERAL. The council shall

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

(A) interpretation of this compact;

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

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

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

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

(c) RIGHT OF APPEAL. The FBI or a party state may appeal any decision of the council to the attorney general, and thereafter may file suit in the appropriate district court of the United States, which shall have original jurisdiction of all cases or controversies arising under this compact. Any suit arising under this compact and initiated in a state court shall be removed to the appropriate district court of the

United States in the manner provided by ~~section 1446 of title 28, United States Code~~ 28 U.S.C. § 1446, or other statutory authority.

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

1. If any person ~~make~~ makes or ~~aid~~ aids in making or establishing, or ~~advertise~~ advertises or ~~make~~ makes public a scheme for a lottery; or ~~advertise~~ advertises, ~~offer~~ offers for sale, ~~sell~~ sells, ~~distribute~~ distributes, ~~negotiate~~ negotiates, ~~dispose~~ disposes of, ~~purchase~~ purchases, or ~~receive~~ receives a ticket or part of a ticket in a lottery or number of a ticket in a lottery; or ~~have~~ has in the person's possession a ticket, part of a ticket, or paper purporting to be the number of a ticket of a lottery, with the intent to sell or dispose of the ticket, part of a ticket, or paper on the person's own account or as the agent of another, the person commits a serious misdemeanor. However, this section does not prohibit the advertising of a lottery or possession by a person of a lottery ticket, part of a ticket, or number of a lottery ticket from a lottery legally operated or permitted under the laws of another jurisdiction. This section also does not prohibit the advertising of a lottery, game of chance, contest, or activity conducted by a not-for-profit organization that would qualify as tax exempt under section 501 of the Internal Revenue Code, as defined in section 422.3, or conducted by a commercial organization as a promotional activity which is clearly occasional and ancillary to the primary business of that organization, provided that the effective dates on any promotional activity shall be clearly stated on all promotional materials. A lottery, game of chance, contest, or activity shall be presumed to be a promotional activity which is not occasional if the lottery, game of chance, contest, or activity is in effect or available to the public for a period of more than ninety days within a one-year period.

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

729.1 RELIGIOUS TEST.

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

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

822.2 SITUATIONS WHERE LAW APPLICABLE.

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

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

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

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

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

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

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

~~7.~~ g. The conviction or sentence is otherwise subject to collateral attack upon any ground of alleged error formerly available under any common law, statutory or other writ, motion, petition, proceeding, or remedy, except alleged error relating to restitution, court costs, or fees under section 904.702 or chapter 815 or 910~~.~~
~~may-institute,-without-paying-a-filing-fee,-a-proceeding-under-this-chapter-to-secure-relief.~~

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

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

822.3 HOW TO COMMENCE PROCEEDING -- LIMITATION.

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

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

822.5 PAYMENT OF COSTS.

If the applicant is unable to pay court costs and stenographic and printing expenses, these costs and expenses shall be made available to the applicant in the trial court, and on review. Unless the applicant is confined in a state institution and is seeking relief under section 822.2, ~~subsections-5-and-6~~ subsection 1, paragraphs "e" and "f", the costs and expenses of legal representation shall also be made available to the applicant in the preparation of the application, in the trial court, and on review if the applicant is unable to pay. However, nothing in this section shall be interpreted to require payment of expenses of legal representation, including stenographic, printing, or other legal services or consultation, when the applicant is self-represented or is utilizing the services of an inmate.

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

822.7 COURT TO HEAR APPLICATION.

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

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

822.9 APPEAL.

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

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

3. The department shall adopt rules for the implementation of this section. The rules shall include the requirement that the treatment programs established pursuant to this chapter meet the licensure standards of the ~~division of substance abuse for the~~ department of public health under chapter 125.

The rules shall also include provisions for the funding of the program by means of self-contribution by the offenders, insurance reimbursement on behalf of offenders, or other forms of funding, program structure, criteria for the evaluation of offenders and programs, and all other issues the director shall deem appropriate.

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

914.1 POWER OF GOVERNOR.

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

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

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

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

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

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

a. The Iowa economic development board is created, consisting of fifteen voting members appointed by the governor and seven ex officio nonvoting members. The ex officio nonvoting members are four legislative members; one president, or the president's designee, of the university of northern Iowa, the university of Iowa, or Iowa state university of

science and technology designated by the state board of regents on a rotating basis; and one president, or the president's designee, of a private college or university appointed by the Iowa association of independent colleges and universities; and one superintendent, or the superintendent's designee, of a community college, appointed by the Iowa association of community college presidents. The legislative members are two state senators, one appointed by the president of the senate, after consultation with the majority leader of the senate, and one appointed by the minority leader of the senate, after consultation with the president of the senate, from their respective parties; and two state representatives, one appointed by the speaker and one appointed by the minority leader of the house of representatives from their respective parties. Not more than eight of the voting members shall be from the same political party. Beginning with the first appointment to the board made after the effective date of this division of this Act, at least one voting member shall have been less than thirty years of age at the time of appointment. The governor shall appoint the voting members of the board for a term of four years beginning and ending as provided by section 69.19, subject to confirmation by the senate, and the governor's appointments shall include persons knowledgeable of the various elements of the department's responsibilities.

Sec. 172. Section 455B.172, subsection 5, unnumbered paragraph 2, Code 2005, as amended by 2005 Iowa Acts, chapter 153, section 2, is amended to read as follows:

The department shall by rule adopt standards for the commercial cleaning of private sewage disposal facilities, including but not limited to septic tanks, and for the disposal of waste from the facilities. The standards shall not be in conflict with the state building code adopted pursuant to section 103A.7. A person shall not commercially clean such facilities or dispose of waste from such facilities unless the person has been issued a license by the department. The department shall be exclusively responsible for adopting the standards and issuing licenses. However, county boards of health shall enforce the standards and licensing requirements established by the department. The department may contract for the delegation of the authority for inspection of land application sites, record reviews, and equipment inspections

to a county board of health. In the event of entering into such a contract, the department shall retain concurrent authority over such activities. Application for the license shall be made in the manner provided by the department. Licenses expire one year from the date of issue unless revoked and may be renewed in the manner provided by the department. A license application shall include registration applications for each vehicle used by the applicant for purposes of collecting septage from private sewage disposal facilities and each vehicle used by the applicant for purposes of applying septage to land. Septic disposal management plans shall be submitted to the department and approved annually as a condition of licensing and shall also be filed annually with the county board of health in the county where a proposed septage application site is located. The septic disposal management plan shall include, but not be limited to, the sites of septage application, the anticipated volume of septage applied to each site, the area of each septage application site, the type of application to be used at each site, the volume of septage expected to be collected from private sewage disposal facilities, and a list of registered vehicles collecting septage from private sewage disposal facilities and applying septage to land. The annual license or license renewal fee for a person commercially cleaning private sewage disposal facilities shall be established by the department based on the volume of septage that is applied to land. A septic management fund is created in the state treasury under the control of the department. Annual license and license renewal fees collected pursuant to this section shall be deposited in the septic management fund and are appropriated to the department for purposes of contracting with county boards of health to conduct land application site inspections, record reviews, and septic cleaning equipment inspections. A person violating this section or the rules adopted pursuant to this section as determined by the department is subject to a civil penalty of not more than two hundred fifty dollars. The department shall adopt rules related to, but not limited to, recordkeeping requirements, application procedures and limitations, contamination issues, loss of septage, failure to file a septic disposal management plan, application by vehicles that are not properly

registered, wrongful application, and violations of a septic disposal management plan. Each day that a violation continues constitutes a separate offense. The penalty shall be assessed for the duration of time commencing with the time the violation begins and ending with the time the violation is corrected. The septic disposal management plan may be examined to determine the duration of the violation. Moneys collected by the department from the imposition of civil penalties shall be deposited in the general fund of the state. Moneys collected by a county board of health from the imposition of civil penalties shall be deposited in the general fund of the county.

Sec. 173. 2005 Iowa Acts, chapter 179, section 14, unnumbered paragraph 1, is amended to read as follows:

There is appropriated from the general fund of the state to the homeland security and emergency management division of the department of public ~~safety~~ defense for the fiscal year beginning July 1, 2005, and ending June 30, 2006, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

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

SEC. 48. HEALTH FACILITIES ~~COUNCIL~~ DIVISION. If 2005 Iowa Acts, House File 810, is enacted and includes an appropriation from the general fund of the state to the department of inspections and appeals for the health facilities ~~council~~ division for the fiscal year beginning July 1, 2005, and ending June 30, 2006, any provision of that appropriation designating the use of \$80,000 and a full-time equivalent position for a particular purpose shall not be applied.

Sec. 175. Section 12B.6, as enacted by 2005 Iowa Acts, chapter 179, section 98, is amended to read as follows:

12B.6 CERTAIN PUBLIC FUNDS OF POLITICAL SUBDIVISIONS.

All funds received, expended, or held by an association of elected county officers before, on, or after the effective date of this division of this Act, to implement a state-authorized program, are subject to audit by the auditor of state at the request of the government oversight committees or the legislative council. All such funds received or held on and after July 1, 2005, shall be deposited in a fund in the office of the treasurer of state.

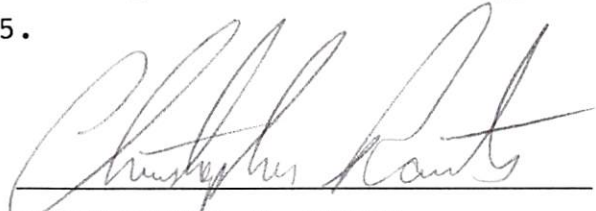
Sec. 176. The section of this Act amending section 147.7 is repealed effective July 1, 2008.

Sec. 177. EFFECTIVE DATES.

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

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

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



CHRISTOPHER C. RANTS
Speaker of the House



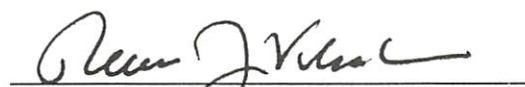
JOHN P. KIBBIE
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 2543, Eighty-first General Assembly.



MARGARET THOMSON
Chief Clerk of the House

Approved March 22, 2006



THOMAS J. VILSACK
Governor