

House File 2589 - Enrolled

House File 2589

AN ACT

RELATING TO STATE AND LOCAL FINANCES BY MAKING APPROPRIATIONS,
PROVIDING FOR LEGAL AND REGULATORY RESPONSIBILITIES,
PROVIDING FOR OTHER PROPERLY RELATED MATTERS, PROVIDING
PENALTIES, MAKING PENALTIES APPLICABLE, AND INCLUDING
EFFECTIVE DATE, APPLICABILITY, AND RETROACTIVE APPLICABILITY
PROVISIONS.

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

DIVISION I

STANDING APPROPRIATIONS AND RELATED MATTERS

Section 1. LIMITATIONS OF STANDING APPROPRIATIONS — FY
2022-2023. Notwithstanding the standing appropriation in the
following designated section for the fiscal year beginning July
1, 2022, and ending June 30, 2023, the amount appropriated from
the general fund of the state pursuant to that section for the
following designated purpose shall not exceed the following
amount:

For payment of claims for nonpublic school pupil
transportation under [section 285.2](#):

..... \$ 8,997,091

If total approved claims for reimbursement for nonpublic school pupil transportation exceed the amount appropriated in accordance with this section, the department of education shall prorate the amount of each approved claim.

Sec. 2. INSTRUCTIONAL SUPPORT STATE AID — FY 2022-2023. In lieu of the appropriation provided in section 257.20, subsection 2, the appropriation for the fiscal year beginning July 1, 2022, and ending June 30, 2023, for paying instructional support state aid under [section 257.20](#) for the fiscal year is zero.

Sec. 3. SPECIAL FUNDS — SALARY ADJUSTMENTS — UNAPPROPRIATED MONEYS — FY 2022-2023. For the fiscal year beginning July 1, 2022, and ending June 30, 2023, salary adjustments otherwise provided may be funded as determined by the department of management, subject to any applicable constitutional limitation, using unappropriated moneys remaining in the department of commerce revolving fund, the gaming enforcement revolving fund, the gaming regulatory revolving fund, the primary road fund, the road use tax fund, the fish and game protection fund, and the Iowa public employees' retirement fund, and in other departmental revolving, trust, or special funds for which the general assembly has not made an operating budget appropriation.

Sec. 4. Section 257.35, Code 2022, is amended by adding the following new subsection:

NEW SUBSECTION. 16A. *a.* Notwithstanding subsection 1, and in addition to the reductions applicable pursuant to subsection 2 and paragraph “*b*” of this subsection, the state aid for area education agencies and the portion of the combined district cost calculated for these agencies related to expenditures other than expenditures for professional development for the fiscal year beginning July 1, 2022, and ending June 30, 2023, shall be reduced by the department of management by fifteen million dollars. The reduction for each area education agency shall be prorated based on the reduction that the agency received in the fiscal year beginning July 1, 2003.

b. Notwithstanding subsection 1, and in addition to the reductions applicable pursuant to subsection 2 and paragraph “*a*” of this subsection, the state aid for area

education agencies and the portion of the combined district cost calculated for these agencies related to professional development expenditures for the fiscal year beginning July 1, 2022, and ending June 30, 2023, shall be reduced by the department of management by an amount equal to the sum of the area education agency professional development supplement district cost for all area education agencies determined under section 257.37A, subsection 2, for the budget year beginning July 1, 2022. The reduction for each area education agency shall be equal to the area education agency's professional development district cost determined under section 257.37A, subsection 2, for the budget year beginning July 1, 2022. The amounts reduced under this paragraph shall be considered funds paid to school districts and area education agencies under chapter 284 for purposes of requirements for providing professional development opportunities.

DIVISION II

CORRECTIVE PROVISIONS

Sec. 5. Section 45.1, subsection 7, paragraph a, Code 2022, as amended by 2022 Iowa Acts, House File 2466, section 3, is amended to read as follows:

a. For a supervisor district with a population of greater than fifteen thousand but ~~fewer~~ no more than fifty thousand according to the most recent federal decennial census, nomination petitions shall include at least fifty signatures.

Sec. 6. Section 80E.2, subsection 2, Code 2022, as amended by 2022 Iowa Acts, House File 2367, section 2, is amended to read as follows:

2. The prosecuting attorney, certified alcohol and drug counselor, certified substance abuse prevention specialist, substance use disorder treatment program director, member representing the Iowa peace officers association, member representing the Iowa state police association, the member representing the Iowa state sheriffs' and deputies' association, and the member ~~representing the Iowa police chiefs association~~ who is a police chief shall be appointed by the governor, subject to senate confirmation, for four-year terms beginning and ending as provided in [section 69.19](#). A vacancy on the council shall be filled for the unexpired term in the

same manner as the original appointment was made.

Sec. 7. Section 124.204, subsection 2, paragraph c1, as enacted by 2022 Iowa Acts, House File 2201, section 1, is amended to read as follows:

c1. N-(1-phenethylpiperidin-4-yl)
-N-phenylcyclopentanecarboxamide. Other name: ~~cyclopentanyl~~
cyclopentyl fentanyl.

Sec. 8. Section 147.77, subsection 1, paragraph 1, as enacted by 2022 Iowa Acts, House File 803, section 51, is amended to read as follows:

1. The department of public safety, with respect to rules relating to permits to carry weapons, that a person who is an unlawful user of or addicted to any controlled substance includes any person who is a current user of a controlled substance in a manner other than as prescribed by a licensed physician.

Sec. 9. Section 147.77, subsection 1, paragraph p, subparagraph (3), as enacted by 2022 Iowa Acts, House File 803, section 51, is amended to read as follows:

(3) For applications for a license to practice asbestos removal, that except as noted in rule, only worker and contractor/supervisor license applicants must submit a the respiratory protection and physician's certification forms.

Sec. 10. Section 249A.42A, subsection 2, as enacted by 2022 Iowa Acts, House File 736, section 1, is amended to read as follows:

2. The provider documented the eligibility verification performed and any necessary prior authorization obtained pursuant to ~~paragraph "a"~~ subsection 1 in a manner and format established by the department by rule, and retained the required documentation in the recipient's file.

Sec. 11. Section 261.116, subsection 7, Code 2022, as amended by 2022 Iowa Acts, Senate File 2383, section 16, if enacted, is amended to read as follows:

6. *Health care award fund.* A health care award fund is created for deposit of moneys appropriated to or received by the commission for use under the program. Notwithstanding section 8.33, moneys deposited in the health care award fund shall not revert to any fund of the state at the

end of any fiscal year but shall remain in the award fund and be continuously available for use under the program. Notwithstanding [section 12C.7, subsection 2](#), interest or earnings on moneys deposited in the health care award fund shall be credited to the fund.

Sec. 12. Section 441.1, subsection 3, paragraph d, as enacted by 2022 Iowa Acts, Senate File 384, section 1, is amended to read as follows:

d. The provisions of chapter 28E are applicable to this section subsection.

Sec. 13. Section 600.5, subsection 9A, as enacted by 2022 Iowa Acts, House File 2252, section 6, is amended to read as follows:

9A. If the parents of the person to be adopted had their parental rights terminated pursuant to chapter 232, the petition shall ~~included~~ include the names of any known siblings placed separately from the person to be adopted and either the plan for ongoing contact between the siblings if a court found that continued contact is in the best interest of each sibling or a statement that the court found continued contact between the siblings is not in the best interest of each sibling.

Sec. 14. Section 692A.102, subsection 1, paragraph c, subparagraph (012), if enacted by 2022 Iowa Acts, Senate File 529, section 6, is amended to read as follows:

NEW SUBPARAGRAPH. (012) Sexual abuse in the fourth degree in violation of section 709.4A, subsection 3, if the perpetrator is a health care professional as defined in section 714I.2, who used or provided the health care professional's own human reproductive material for assisted reproduction in violation of section 714I.3, subsection 2.

Sec. 15. 2022 Iowa Acts, House File 2200, section 3, is amended to read as follows:

SEC. 3. APPLICABILITY. This Act applies to direct health care agreements that are fully executed on or after the effective date of enactment ~~this Act~~.

Sec. 16. 2022 Iowa Acts, House File 2201, section 7, is amended by striking the section and inserting in lieu thereof the following:

SEC. 7. Section 124.206, subsection 2, paragraph a,

unnumbered paragraph 1, Code 2022, is amended by striking the unnumbered paragraph and inserting in lieu thereof the following:

Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate excluding apomorphine, thebaine-derived butorphanol, dextrorphan, nalbuphine, naldemedine, nalmefene, naloxegol, naloxone, 6beta-naltrexol, naltrexone, and samidorphan, and their respective salts, but including the following:

Sec. 17. 2022 Iowa Acts, Senate File 2295, section 184, is amended by striking the section and inserting in lieu thereof the following:

SEC. 184. 2020 Iowa Acts, chapter 1064, sections 17 and 18, are amended by striking the sections and inserting in lieu thereof the following:

SEC. 17. [Section 422.12D, subsection 2](#), Code 2022, is amended to read as follows:

2. The director of revenue shall draft the income tax form to allow the designation of contributions to the veterans trust fund and to the volunteer fire fighter preparedness fund as one checkoff on the tax return. The department of revenue, on or before January 31, shall transfer one-half of the total amount designated on the tax return forms due in the preceding calendar year to the veterans trust fund and the remaining one-half to the volunteer fire fighter preparedness fund. However, before a checkoff pursuant to [this section](#) shall be permitted, all liabilities on the books of the department of ~~administrative services~~ and accounts identified as owing under section ~~8A.504~~ [421.65](#) shall be satisfied.

SEC. 18. [Section 422.12L, subsection 2](#), Code 2022, is amended to read as follows:

2. The director of revenue shall draft the income tax form to allow the designation of contributions to the foundation fund on the tax return. The department, on or before January 31, shall transfer the total amount designated on the tax form due in the preceding year to the foundation fund. However, before a checkoff pursuant to [this section](#) shall be permitted, all liabilities on the books of the department of ~~administrative services~~ and accounts identified as owing under

section ~~8A.504~~ 421.65 shall be satisfied.

Sec. 18. CONTINGENT REPEAL. 2022 Iowa Acts, House File 2581, section 13, if enacted, is repealed.

Sec. 19. CODE EDITOR DIRECTIVES.

1. If Senate File 496 is enacted during the 2022 session of the Eighty-ninth General Assembly, the Code editor is directed to transfer the Code sections as enacted by that Act as follows:

a. Section 94.1 to section 94B.1.

b. Section 94.2 to section 94B.2.

2. The Code editor is directed to renumber section 331.301, subsection 18, as enacted by 2022 Iowa Acts, House File 728, to become section 331.301, subsection 21.

3. The Code editor shall correct internal references in the Code and in any enacted legislation as necessary due to the enactment of this section.

Sec. 20. EFFECTIVE DATE. The following, being deemed of immediate importance, take effect upon enactment:

1. The section of this division of this Act amending section 124.204, subsection 2, paragraph "cl".

2. The section of this division of this Act amending 2022 Iowa Acts, House File 2200, section 3.

3. The section of this division of this Act amending 2022 Iowa Acts, House File 2201, section 7.

Sec. 21. RETROACTIVE APPLICABILITY. The following apply retroactively to May 2, 2022:

1. The section of this division of this Act amending section 124.204, subsection 2, paragraph "cl".

2. The section of this division of this Act amending 2022 Iowa Acts, House File 2201, section 7.

Sec. 22. RETROACTIVE APPLICABILITY. The section of this division of this Act amending 2022 Iowa Acts, House File 2200, section 3, applies retroactively to May 12, 2022.

DIVISION III

OFFICE OF THE CHIEF INFORMATION OFFICER

Sec. 23. Section 8B.2, Code 2022, is amended to read as follows:

8B.2 Office ~~created~~ established — chief information officer ~~appointed~~ selected.

1. ~~The office of the chief information officer is created as an independent agency and is attached to the department of administrative services for accounting and fiscal services. The department of administrative services shall provide such additional assistance and administrative support services to the office as the department of administrative services and the office determines maximizes the efficiency and effectiveness of both the department and office~~ established within the department of management.

2. The chief information officer, who shall be the head of the office, shall be ~~appointed by the governor to serve at the pleasure of the governor and is subject to confirmation by the senate. If the office becomes vacant, the vacancy shall be filled in the same manner as provided for the original appointment~~ selected by the director of the department of management. The director of the department of management shall set the salary of the chief information officer.

3. The person ~~appointed~~ selected as the chief information officer for the state shall be professionally qualified by education and have no less than five years' experience in the field of information technology, and a working knowledge of financial management. ~~The chief information officer shall not be a member of any local, state, or national committee of a political party, an officer or member of a committee in any partisan political club or organization, or hold or be a candidate for a paid elective public office. The chief information officer is subject to the restrictions on political activity provided in~~ section 8A.416.

Sec. 24. Section 8D.3, subsection 2, paragraph b, Code 2022, is amended to read as follows:

b. The auditor of state or the auditor's designee and the chief information officer ~~appointed~~ selected pursuant to section 8B.2 or the chief information officer's designee shall serve as nonvoting, ex officio members of the commission.

Sec. 25. Section 11.5B, subsection 15, Code 2022, is amended to read as follows:

15. Office of the chief information officer of the department of management.

Sec. 26. 2008 Iowa Acts, chapter 1191, section 14,

subsection 7, as amended by 2010 Iowa Acts, chapter 1193, section 26, is amended to read as follows:

7. The following are range 7 positions: administrator of the public broadcasting division of the department of education, director of the department of corrections, director of the department of education, director of human services, director of the department of economic development, executive director of the Iowa telecommunications and technology commission, executive director of the state board of regents, director of transportation, director of the department of workforce development, director of revenue, director of public health, state court administrator, director of the department of management, ~~chief information officer~~, state debt coordinator, and director of the department of administrative services.

Sec. 27. EFFECTIVE DATE. This division of this Act, being deemed of immediate importance, takes effect upon enactment.

Sec. 28. APPLICABILITY. This division of this Act, as it relates to the salary of the chief information officer, applies with the pay period beginning after the effective date of this division of this Act, and subsequent pay periods.

DIVISION IV

CONDUCT OF ELECTIONS — FUNDING

Sec. 29. NEW SECTION. **49.17 Conduct of elections — funding.**

1. The state commissioner or a county commissioner or political subdivision of the state shall only accept funding from the following sources for the purposes of conducting an election:

a. Lawful appropriations of public moneys from the government of the United States.

b. Lawful appropriations of public moneys from the state of Iowa.

c. Lawful appropriations of public moneys from a political subdivision of the state for the conduct of an election in the political subdivision.

2. The state commissioner, a county commissioner, or a political subdivision of the state shall not accept or expend a grant, gift, or other source of funding from a source other

than those listed in subsection 1, including from a private person, corporation, partnership, political party, nonparty political organization, committee as defined in section 68A.102, or other organization for the purpose of conducting an election.

3. This section does not prohibit the state commissioner or a county commissioner or political subdivision from issuing and collecting fees as otherwise provided by law.

4. This section does not apply to the contribution of a building for use as a polling place pursuant to section 49.21.

Sec. 30. EFFECTIVE DATE. This division of this Act, being deemed of immediate importance, takes effect upon enactment.

DIVISION V

DIRECT MASS MAILING

Sec. 31. Section 68A.405A, Code 2022, is amended by adding the following new subsections:

NEW SUBSECTION. 3. For the purposes of this section, "*direct mass mailing*" means a mailing, regardless of whether the mailing was sent in response to a request or due to the recipient's enrollment in a program, that provides information to the recipient about a person, policy, product, service, program, initiative, law, legislation, event, or activity promoted by the statewide elected official that is all of the following:

a. Printed material delivered by the United States mail or other delivery service.

b. Sent to more than two hundred physical addresses.

c. Substantially similar or identical as regards each mailing.

d. Sent at the same time or within a thirty-day period.

NEW SUBSECTION. 4. Notwithstanding subsection 3, a mailing that is sent to any participant in a program or the participant's address within sixty days of an election in which an office listed in section 39.9 is to appear on the ballot shall be considered a direct mass mailing for the purposes of subsection 1 if the purpose of the mailing is to provide a participant with information relevant to the participant's existing account with a program sponsored and administered by the statewide elected official who sent the mailing.

DIVISION VI
OPEN ENROLLMENT

Sec. 32. Section 256F.9, Code 2022, is amended to read as follows:

256F.9 Procedures after revocation — student enrollment.

If a charter school or innovation zone school contract is revoked in accordance with [this chapter](#), a nonresident student who attended the school, and any siblings of the student, ~~shall be determined to have shown "good cause" as provided in [section 282.18, subsection 4](#), paragraph "b", and may submit an application to another school district according to section 282.18 at any time. Applications and notices required by section 282.18 shall be processed and provided in a prompt manner. The application and notice deadlines in [section 282.18](#) do not apply to a nonresident student application under these circumstances.~~

Sec. 33. Section 282.18, subsection 2, paragraphs a and b, Code 2022, are amended to read as follows:

~~a. By March 1 of the preceding school year for students entering grades one through twelve, or by September 1 of the current school year for students entering kindergarten or for prekindergarten students enrolled in special education programs and included in the school district's basic enrollment under [section 257.6, subsection 1](#), paragraph "a", subparagraph (1), the A parent or guardian shall send notification to the district of residence and the receiving district, on forms prescribed by the department of education, that the parent or guardian intends to enroll the parent's or guardian's child in a public school in another school district. If a parent or guardian fails to file a notification that the parent intends to enroll the parent's or guardian's child in a public school in another district by the deadline specified in this subsection, the procedures of [subsection 4](#) apply.~~

b. The board of the receiving district shall enroll the pupil in a school in the receiving district ~~for the following school year~~ unless the receiving district has insufficient classroom space for the pupil. The board of directors of a receiving district may adopt a policy granting the superintendent of the school district authority to approve open

enrollment applications. If the request is granted, the board shall transmit a copy of the form to the parent or guardian and the school district of residence within five days after board action, ~~but not later than June 1 of the preceding school year.~~ The parent or guardian may withdraw the request at any time prior to the ~~start of the school year~~ board's action on the application. A denial of a request by the board of a receiving district is not subject to appeal.

Sec. 34. Section 282.18, subsection 3, paragraph a, Code 2022, is amended to read as follows:

a. The superintendent of a district subject to court-ordered desegregation may deny a request for transfer under this section if the superintendent finds that enrollment or release of a pupil will adversely affect the district's implementation of the desegregation order, unless the transfer is requested by a pupil whose sibling is already participating in open enrollment to another district, or unless the request for transfer is submitted to the district ~~in a timely manner as required under subsection 2~~ prior to implementation of the desegregation order by the district. If a transfer request would facilitate implementation of a desegregation order, the district shall give priority to granting the request over other requests.

Sec. 35. Section 282.18, subsections 4, 5, and 15, Code 2022, are amended by striking the subsections.

Sec. 36. Section 282.18, subsection 6, Code 2022, is amended to read as follows:

6. A request under this section is for a period of not less than one year. If the request is for more than one year and the parent or guardian desires to have the pupil enroll in a different district, the parent or guardian may petition the current receiving district ~~by March 1 of the previous school year~~ for permission to enroll the pupil in a different district for a period of not less than one year. Upon receipt of such a request, the current receiving district board may act on the request to transfer to the other school district at the next regularly scheduled board meeting after the receipt of the request. The new receiving district shall enroll the pupil in the district unless there is insufficient classroom space

in the district or the district is subject to court-ordered desegregation and enrollment of the pupil would adversely affect implementation of the desegregation order. A denial of a request to change district enrollment ~~within the approved period~~ is not subject to appeal. ~~However, a~~ A pupil who has been in attendance in another district under this section may return to the district of residence and enroll at any time, once the parent or guardian has notified the district of residence and the receiving district in writing of the decision to enroll the pupil in the district of residence.

Sec. 37. Section 282.18, subsection 7, Code 2022, is amended by adding the following new paragraph:

NEW PARAGRAPH. *c.* If a pupil participating in open enrollment attends school in the receiving district for less than a full school year, payment from the district of residence to the receiving district shall be prorated on a per diem basis.

Sec. 38. Section 282.18, subsection 11, paragraph a, subparagraph (8), Code 2022, is amended to read as follows:

(8) If the pupil participates in open enrollment because of circumstances that meet the definition of good cause ~~under subsection 4, paragraph "b"~~. For purposes of this subparagraph, "good cause" means a change in a child's residence due to a change in family residence, a change in a child's residence from the residence of one parent or guardian to the residence of different parent or guardian, a change in the state in which the family residence is located, a change in a child's parents' marital status, a guardianship or custody proceeding, placement in foster care, adoption, participation in a foreign exchange program, initial placement of a prekindergarten student in a special education program requiring specially designed instruction, or participation in a substance abuse or mental health treatment program, a change in the status of a child's resident district such as removal of accreditation by the state board, surrender of accreditation, or permanent closure of a nonpublic school, revocation of a charter school contract as provided in section 256E.10 or 256F.8, the failure of negotiations for a whole grade sharing, reorganization, dissolution agreement, or the rejection of a current whole

grade sharing agreement, or reorganization plan.

Sec. 39. Section 290.1, Code 2022, is amended to read as follows:

290.1 Appeal to state board.

An affected pupil, or the parent or guardian of an affected pupil who is a minor, who is aggrieved by a decision or order of the board of directors of a school corporation in a matter of law or fact, ~~or a decision or order of a board of directors under section 282.18, subsection 5~~, may, within thirty days after the rendition of the decision or the making of the order, appeal the decision or order to the state board of education; the basis of the proceedings shall be an affidavit filed with the state board by the party aggrieved within the time for taking the appeal, which affidavit shall set forth any error complained of in a plain and concise manner.

Sec. 40. EMERGENCY RULES. The department of education may adopt emergency rules under section 17A.4, subsection 3, and section 17A.5, subsection 2, paragraph "b", to implement the provisions of this division of this Act and the rules shall be effective immediately upon filing unless a later date is specified in the rules. Any rules adopted in accordance with this section shall also be published as a notice of intended action as provided in section 17A.4.

Sec. 41. EFFECTIVE DATE. This division of this Act, being deemed of immediate importance, takes effect upon enactment.

DIVISION VII

SHARED OPERATIONAL FUNCTIONS

Sec. 42. Section 257.11, subsection 5, paragraph a, Code 2022, is amended to read as follows:

a. (1) In order to provide additional funding to increase student opportunities and redirect more resources to student programming for school districts that share operational functions, a district that shares with a political subdivision one or more operational functions of a curriculum director, master social worker, independent social worker, work-based learning coordinator, special education director, mental health professional who holds a statement of recognition issued by the board of educational examiners, college and career transition counselor or coordinator, or school

counselor, or one or more operational functions in the areas of superintendent management, business management, human resources, transportation, or operation and maintenance for at least twenty percent of the school year shall be assigned a supplementary weighting for each shared operational function. A school district that shares an operational function in the area of superintendent management shall be assigned a supplementary weighting of eight pupils for the function. A school district that shares an operational function in the area of business management, human resources, transportation, or operation and maintenance shall be assigned a supplementary weighting of five pupils for the function. A school district that shares the operational functions of a curriculum director; a master social worker or an independent social worker licensed under [chapters 147 and 154C](#); a work-based learning coordinator; a special education director; a mental health professional who holds a statement of recognition issued by the board of educational examiners; a college and career transition counselor or coordinator; or a school counselor shall be assigned a supplementary weighting of three pupils for the function. The additional weighting shall be assigned for each discrete operational function shared. However, a school district may receive the additional weighting under this subsection for sharing the services of an individual with a political subdivision even if the type of operational function performed by the individual for the school district and the type of operational function performed by the individual for the political subdivision are not the same operational function, so long as both operational functions are eligible for weighting under [this subsection](#). In such case, the school district shall be assigned the additional weighting for the type of operational function that the individual performs for the school district, and the school district shall not receive additional weighting for any other function performed by the individual. The operational function sharing arrangement does not need to be a newly implemented sharing arrangement to receive supplementary weighting under [this subsection](#).

(2) For the purposes of this paragraph "a":

(a) "College and career transition counselor or coordinator"

means a licensed school counselor or an appropriately trained individual responsible for providing direct services to students, parents, families, schools, and postsecondary institutions to support college preparation and postsecondary success, such as college preparation, financial aid processing, and transition to postsecondary institution enrollment.

~~(a)~~ (b) "*Political subdivision*" means a city, township, county, school corporation, merged area, area education agency, institution governed by the state board of regents, or any other governmental subdivision.

~~(b)~~ (c) "*Work-based learning coordinator*" means an appropriately trained individual responsible for facilitating authentic, engaging work-based learning experiences for learners and educators in partnership with employers and others to enhance learning by connecting the content and skills that are necessary for future careers.

DIVISION VIII

DELINQUENT ACT — POSSESSION OF DANGEROUS WEAPONS OR FIREARMS BY MINORS

Sec. 43. Section 232.2, subsection 12, Code 2022, is amended by adding the following new paragraph:

NEW PARAGRAPH. *e.* The violation of section 724.4E which is committed by a child.

Sec. 44. EFFECTIVE DATE. This division of this Act, being deemed of immediate importance, takes effect upon enactment.

DIVISION IX

ASSAULT — NATIONAL GUARD MEMBERS

Sec. 45. Section 708.3A, subsections 1, 2, 3, and 4, Code 2022, are amended to read as follows:

1. A person who commits an assault, as defined in section 708.1, against a peace officer, jailer, correctional staff, member or employee of the board of parole, health care provider, employee of the department of human services, employee of the department of revenue, national guard member engaged in national guard duty or state active duty, civilian employee of a law enforcement agency, civilian employee of a fire department, or fire fighter, whether paid or volunteer, with the knowledge that the person against whom the assault is committed is a peace officer, jailer, correctional staff,

member or employee of the board of parole, health care provider, employee of the department of human services, employee of the department of revenue, national guard member engaged in national guard duty or state active duty, civilian employee of a law enforcement agency, civilian employee of a fire department, or fire fighter and with the intent to inflict a serious injury upon the peace officer, jailer, correctional staff, member or employee of the board of parole, health care provider, employee of the department of human services, employee of the department of revenue, national guard member engaged in national guard duty or state active duty, civilian employee of a law enforcement agency, civilian employee of a fire department, or fire fighter, is guilty of a class "D" felony.

2. A person who commits an assault, as defined in section 708.1, against a peace officer, jailer, correctional staff, member or employee of the board of parole, health care provider, employee of the department of human services, employee of the department of revenue, national guard member engaged in national guard duty or state active duty, civilian employee of a law enforcement agency, civilian employee of a fire department, or fire fighter, whether paid or volunteer, who knows that the person against whom the assault is committed is a peace officer, jailer, correctional staff, member or employee of the board of parole, health care provider, employee of the department of human services, employee of the department of revenue, national guard member engaged in national guard duty or state active duty, civilian employee of a law enforcement agency, civilian employee of a fire department, or fire fighter and who uses or displays a dangerous weapon in connection with the assault, is guilty of a class "D" felony.

3. A person who commits an assault, as defined in section 708.1, against a peace officer, jailer, correctional staff, member or employee of the board of parole, health care provider, employee of the department of human services, employee of the department of revenue, national guard member engaged in national guard duty or state active duty, civilian employee of a law enforcement agency, civilian employee of a fire department, or fire fighter, whether paid or volunteer,

who knows that the person against whom the assault is committed is a peace officer, jailer, correctional staff, member or employee of the board of parole, health care provider, employee of the department of human services, employee of the department of revenue, national guard member engaged in national guard duty or state active duty, civilian employee of a law enforcement agency, civilian employee of a fire department, or fire fighter, and who causes bodily injury or mental illness, is guilty of an aggravated misdemeanor.

4. Any other assault, as defined in [section 708.1](#), committed against a peace officer, jailer, correctional staff, member or employee of the board of parole, health care provider, employee of the department of human services, employee of the department of revenue, national guard member engaged in national guard duty or state active duty, civilian employee of a law enforcement agency, civilian employee of a fire department, or fire fighter, whether paid or volunteer, by a person who knows that the person against whom the assault is committed is a peace officer, jailer, correctional staff, member or employee of the board of parole, health care provider, employee of the department of human services, employee of the department of revenue, national guard member engaged in national guard duty or state active duty, civilian employee of a law enforcement agency, civilian employee of a fire department, or fire fighter, is a serious misdemeanor.

Sec. 46. Section 708.3A, subsection 5, Code 2022, is amended by adding the following new paragraphs:

NEW PARAGRAPH. *f.* "*National guard*" means the same as defined in section 29A.1.

NEW PARAGRAPH. *g.* "*National guard duty*" means the same as defined in section 29A.1.

NEW PARAGRAPH. *h.* "*State active duty*" means the same as defined in section 29A.1.

DIVISION X

DEPENDENT ADULT ABUSE RESULTING IN DEATH

Sec. 47. Section 726.26, if enacted by 2022 Iowa Acts, Senate File 522, section 6, is amended by adding the following new subsection:

NEW SUBSECTION. 2A. A caretaker who intentionally or

recklessly commits dependent adult abuse is guilty of murder in the second degree in violation of section 707.3 if the intentional or reckless dependent adult abuse results in the death of the dependent adult.

DIVISION XI

HEALTH CARE PROVIDER REFERRAL TO AMBULATORY SURGICAL CENTER

Sec. 48. NEW SECTION. 147.163 Provision of information — referral to ambulatory surgical center — licensee discipline.

1. A health care provider who determines that a patient is a candidate for outpatient surgery based on the patient's medical status and surgical service needs, and refers the patient to an ambulatory surgical center as an option for the surgery, shall provide the patient with a written document listing the factors the patient should consider to make a fully informed decision about the patient's recommended course of care. The considerations shall include all of the following:

a. The differences in ownership; licensure, certification, or accreditation; and payment alternatives between the ambulatory surgical center and a hospital.

b. The types of medical personnel generally involved in the patient's surgical service and the capacity of the ambulatory surgical center and a hospital to comply with the personnel requirements.

c. The capacity of the ambulatory surgical center and a hospital to respond to medical complications and emergencies that may arise from the surgical service.

d. The proximity of the ambulatory surgical center to a hospital and the protocols in place for transfer of a patient from the ambulatory surgical center to the hospital for emergency care.

e. The type of anesthesia generally used for the patient's surgical service and the capacity of the ambulatory surgical center and a hospital to comply with requirements relative to the use of anesthesia.

2. For the purposes of this section:

a. "Ambulatory surgical center" means a distinct facility that operates exclusively for the purpose of providing surgical services to patients not requiring hospitalization and in which the expected duration of services does not exceed twenty-four

hours following an admission. *“Ambulatory surgical center”* includes a facility that otherwise meets the definition of ambulatory surgical center whether or not licensed, certified, or accredited as an ambulatory surgical center and which may or may not operate on a partially cash-only or completely cash-only basis. *“Ambulatory surgical center”* does not include individual or group practice offices of private physicians or podiatrists that do not contain a distinct area used for outpatient surgical treatment on a regular basis, or that only provide surgery routinely provided in a physician’s or podiatrist’s office using local anesthesia or conscious sedation; individual or group practice offices of private dentists; or a portion of a licensed hospital designated for outpatient surgical treatment.

b. “Health care provider” means a person who is licensed, certified, or otherwise authorized or permitted by the laws of this state to administer health care in the ordinary course of business or in the practice of a profession.

c. “Hospital” means the same as defined in section 135B.1.

3. A health care provider who violates this section is subject to licensee discipline by the appropriate licensing or disciplinary authority.

DIVISION XII

HEALTH CARE EMPLOYMENT AGENCIES

Sec. 49. RETROACTIVE APPLICABILITY. 2022 Iowa Acts, House File 2521, applies retroactively to any contract between a health care employment agency and an agency worker or health care entity referred to under section 135Q.2, subsection 3, as enacted by 2022 Iowa Acts, House File 2521, that was entered into or executed on or after January 1, 2019.

DIVISION XIII

PHYSICAL EXAMINATIONS BY LICENSED PHYSICIANS

Sec. 50. Section 237A.12, Code 2022, is amended by adding the following new subsection:

NEW SUBSECTION. 6. Rules adopted relating to physical examination requirements for licensed or registered facility personnel and the children being provided child care by the licensed or registered facility shall allow for any licensed physician as defined in section 135.1 to perform the physical

examination.

DIVISION XIV

BEVERAGE CONTAINERS CONTROL

Sec. 51. Section 455C.2, subsection 2, paragraph b, if enacted by 2022 Iowa Acts, Senate File 2378, section 4, is amended to read as follows:

b. A distributor who pays a handling fee for ~~beverage containers~~ a beverage container that was sold for consumption off the premises and that used to contain beer, including high-alcoholic content beer, may claim a refund of the barrel tax established in section 123.136 paid by the distributor in the amount of one cent for each such beverage container accepted by the distributor. The department of revenue shall prescribe forms for a distributor to use to claim a refund under this paragraph. Identifying information collected by the department of revenue pursuant to this paragraph that can be used to identify a specific distributor shall be considered confidential information pursuant to section 22.7, subsection 75.

Sec. 52. EFFECTIVE DATE. This division of this Act takes effect January 1, 2023.

DIVISION XV

FUNERAL SERVICES — CORRECTION

Sec. 53. Section 523A.505, subsection 1, as enacted by 2022 Iowa Acts, House File 2155, section 4, is amended to read as follows:

1. A sales agent, and any person who owns at least five percent of a preneed seller business, shall have an ongoing duty to disclose to the commissioner all felony crimes and those misdemeanor-level crimes involving dishonesty or false statement for which the sales agent or person has been found guilty, or for which the sales agent or person has pled guilty or no contest. Such disclosure shall be made to the commissioner within thirty calendar days of the date that the sales agent or person has been found guilty by a court of competent jurisdiction, or of the date the sales agent or person pleads ~~not~~ guilty or no contest.

DIVISION XVI

COUNTY JURISDICTION — CEMETERIES

Sec. 54. Section 331.325, subsection 3, Code 2022, is amended by adding the following new paragraph:

NEW PARAGRAPH. *d.* A cemetery that does not otherwise qualify to be under the jurisdiction and control of a county board of supervisors or county cemetery commission may designate a portion of the cemetery as a pioneer section if at least fifty percent of the burials in that portion occurred at least one hundred years prior to the designation. Upon approval by the cemetery, the county board of supervisors, and the county cemetery commission, the county cemetery commission may use its resources to restore and maintain the pioneer section of the cemetery as though that section was a pioneer cemetery. However, a cemetery with a designated pioneer section and the pioneer section itself shall not be considered a pioneer cemetery.

Sec. 55. NEW SECTION. **523I.403 Pioneer section — management by county cemetery commission.**

A cemetery may designate a portion of the cemetery as a pioneer section to be restored and maintained by the county cemetery commission as provided in section 331.325, subsection 3, paragraph “d”.

DIVISION XVII

HOME-BASED BUSINESSES

Sec. 56. Section 137D.1, subsection 4, unnumbered paragraph 1, Code 2022, as amended by 2022 Iowa Acts, House File 2431, section 2, if enacted, is amended to read as follows:

“*Homemade food item*” means a food that is produced and, if packaged, packaged at a home food processing establishment. “*Homemade food item*” includes food that is not time/temperature control for safety food, but does not include such food if produced and sold under section 137F.20. “*Homemade food item*” does not include unpasteurized fruit or vegetable juice, raw sprout seeds, foods containing game animals, fish or shellfish, alcoholic beverages, bottled water, packaged ice, consumable hemp products, food that will be further processed by a food processing plant, time/temperature control for safety food packaged using a reduced oxygen packaging method, milk or milk products regulated under chapter 192 or 194, and meat, meat food products, poultry, or poultry products regulated under

chapter 189A, except for any of the following products when sold directly to the end consumer:

Sec. 57. Section 137F.1, subsection 2A, paragraph a, if enacted by 2022 Iowa Acts, House File 2431, section 8, is amended to read as follows:

a. Milk or milk products regulated under chapter 192 or 194.

PAT GRASSLEY

Speaker of the House

JAKE CHAPMAN

President of the Senate

I hereby certify that this bill originated in the House and is known as House File 2589, Eighty-ninth General Assembly.

MEGHAN NELSON

Chief Clerk of the House

Approved _____, 2022

KIM REYNOLDS

Governor