

FILED SEP 7 '04

WAYS & MEANS

SENATE FILE 2312
BY COMMITTEE ON WAYS AND
MEANS

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

WAYS & MEANS

SF 2312

1 An Act concerning regulatory, taxation, and statutory
2 requirements affecting individuals and business relating to
3 economic development, workers' compensation, financial
4 services, unemployment compensation employer surcharges,
5 income taxation bonus depreciation and expensing allowances,
6 and civil action appeal bonds, and including effective date,
7 applicability, and retroactive applicability provisions.

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

9
10
11
12
13
14
15
16
17
18
19
20
21
22

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35

DIVISION I

LEGISLATIVE FINDINGS

Section 1. LEGISLATIVE FINDINGS. It is the finding of the general assembly that the recent Iowa supreme court decision of Rants and Iverson v. Vilsack, No. 60/03-1948, June 16, 2004, has invalidated the proper enactment of provisions contained in 2003 Iowa Acts, First Extraordinary Session, chapter 1 (House File 692). It is the intent of the general assembly to reenact and reaffirm certain provisions of House File 692 that were published in the 2003 Iowa Code Supplement, including provisions that were subsequently amended in the 2004 regular session of the Eightieth General Assembly and validate contracts entered into in reliance on the enactment of provisions published in the 2003 Code Supplement.

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

DIVISION II

ENDOW IOWA GRANTS

Sec. 3. The following provisions, as published in Iowa Code Supplement 2003, pertaining to endow Iowa grants, are reaffirmed and reenacted:

- 1. Section 15E.301.
- 2. Section 15E.302.
- 3. Section 15E.303.
- 4. Section 15E.304.
- 5. Section 15E.306.

Sec. 4. EFFECTIVE DATE AND RETROACTIVE APPLICABILITY PROVISIONS. This division of this Act, being deemed of immediate importance, takes effect upon enactment, and is retroactively applicable to January 1, 2003, for tax years beginning on or after that date.

DIVISION III

CIVIL ACTION APPEAL BONDS

Sec. 5. Section 625A.9, as published in Iowa Code Supplement 2003, pertaining to supersedeas bonds, is

1 reaffirmed and reenacted.

2 Sec. 6. Section 625A.9, subsection 2, Code Supplement
3 2003, as reaffirmed and reenacted by this division of this
4 Act, is amended to read as follows:

5 2. a. If Except as provided in paragraph "b", if the
6 judgment or order appealed from is for money, such bond shall
7 not exceed one hundred ten percent of the amount of the money
8 judgment.

9 The court may set a bond in an amount in excess of one
10 hundred ten percent of the amount of the money judgment upon
11 making specific findings justifying such an amount, and in
12 doing so, shall consider, but shall not be limited to
13 consideration of, the following criteria:

14 (1) The availability and cost of the bond or other form of
15 adequate security.

16 (2) The assets of the judgment debtor and of the judgment
17 debtor's insurer or indemnitor, if any.

18 (3) The potential adverse effects of the bond on the
19 judgment debtor, including, but not limited to, the potential
20 adverse effects on the judgment debtor's employees, financial
21 stability, and business operations.

22 (4) The potential adverse effects of the bond on the
23 judgment creditor and third parties, including public
24 entities.

25 (5) In a class action suit, the adequacy of the bond to
26 compensate all members of the class.

27 b. Notwithstanding paragraph "a", in no case shall a bond
28 exceed one hundred million dollars, regardless of the value of
29 the money judgment. This limitation shall not apply in cases
30 where the court finds that the defendant intentionally
31 dissipated the defendant's assets outside the ordinary course
32 of business for the purpose of evading payment of the
33 judgment.

34 Sec. 7. 2004 Iowa Acts, Senate File 2306, is repealed.

35 Sec. 8. EFFECTIVE DATE AND RETROACTIVE APPLICABILITY

1 PROVISIONS.

2 1. The section of this division of this Act reaffirming
3 and reenacting section 625A.9, being deemed of immediate
4 importance, takes effect upon enactment, and applies
5 retroactively to July 1, 2003.

6 2. The section of this division of this Act amending
7 section 625A.9, as reaffirmed and reenacted by this division
8 of this Act, being deemed of immediate importance, takes
9 effect upon enactment of this Act, and applies retroactively
10 to cases pending and filed on or after April 20, 2004, and
11 through June 15, 2004, and to cases pending or filed on or
12 after June 16, 2004.

13 3. The section of this division of this Act repealing 2004
14 Iowa Acts, Senate File 2306, being deemed of immediate
15 importance, takes effect upon enactment.

16 4. This section of this division of this Act, being deemed
17 of immediate importance, takes effect upon enactment.

18 DIVISION IV

19 WORKERS' COMPENSATION

20 Sec. 9. Section 85.27, subsection 4, Code 2003, is amended
21 to read as follows:

22 4. For purposes of this section, the employer is obliged
23 to furnish reasonable services and supplies to treat an
24 injured employee, and has the right to choose the care. If
25 the employer chooses the care, the employer shall hold the
26 employee harmless for the cost of care until the employer
27 notifies the employee that the employer is no longer
28 authorizing all or any part of the care and the reason for the
29 change in authorization. An employer is not liable for the
30 cost of care that the employer arranges in response to a
31 sudden emergency if the employee's condition, for which care
32 was arranged, is not related to the employment. The treatment
33 must be offered promptly and be reasonably suited to treat the
34 injury without undue inconvenience to the employee. If the
35 employee has reason to be dissatisfied with the care offered,

1 the employee should communicate the basis of such
2 dissatisfaction to the employer, in writing if requested,
3 following which the employer and the employee may agree to
4 alternate care reasonably suited to treat the injury. If the
5 employer and employee cannot agree on such alternate care, the
6 commissioner may, upon application and reasonable proofs of
7 the necessity therefor, allow and order other care. In an
8 emergency, the employee may choose the employee's care at the
9 employer's expense, provided the employer or the employer's
10 agent cannot be reached immediately. An application made
11 under this subsection shall be considered an original
12 proceeding for purposes of commencement and contested case
13 proceedings under section 85.26. The hearing shall be
14 conducted pursuant to chapter 17A. Before a hearing is
15 scheduled, the parties may choose a telephone hearing or an
16 in-person hearing. A request for an in-person hearing shall
17 be approved unless the in-person hearing would be impractical
18 because of the distance between the parties to the hearing.
19 The workers' compensation commissioner shall issue a decision
20 within ten working days of receipt of an application for
21 alternate care made pursuant to a telephone hearing or within
22 fourteen working days of receipt of an application for
23 alternate care made pursuant to an in-person hearing. The
24 employer shall notify an injured employee of the employee's
25 ability to contest the employer's choice of care pursuant to
26 this subsection.

27 Sec. 10. Section 85.34, subsection 2, paragraph u, Code
28 2003, is amended to read as follows:

29 u. In all cases of permanent partial disability other than
30 those hereinabove described or referred to in paragraphs "a"
31 through "t" hereof, the compensation shall be paid during the
32 number of weeks in relation to five hundred weeks as the
33 reduction in the employee's earning capacity caused by the
34 disability bears in relation to the body-of-the-injured
35 earning capacity that the employee as-a-whole possessed when

1 the injury occurred.

2 Sec. 11. Section 85.34, Code 2003, is amended by adding
3 the following new subsection:

4 NEW SUBSECTION. 7. SUCCESSIVE DISABILITIES.

5 a. An employer is fully liable for compensating all of an
6 employee's disability that arises out of and in the course of
7 the employee's employment with the employer. An employer is
8 not liable for compensating an employee's preexisting
9 disability that arose out of and in the course of employment
10 with a different employer or from causes unrelated to
11 employment.

12 b. If an injured employee has a preexisting disability
13 that was caused by a prior injury arising out of and in the
14 course of employment with the same employer, and the
15 preexisting disability was compensable under the same
16 paragraph of section 85.34, subsection 2, as the employee's
17 present injury, the employer is liable for the combined
18 disability that is caused by the injuries, measured in
19 relation to the employee's condition immediately prior to the
20 first injury. In this instance, the employer's liability for
21 the combined disability shall be considered to be already
22 partially satisfied to the extent of the percentage of
23 disability for which the employee was previously compensated
24 by the employer.

25 If, however, an employer is liable to an employee for a
26 combined disability that is payable under section 85.34,
27 subsection 2, paragraph "u", and the employee has a
28 preexisting disability that causes the employee's earnings to
29 be less at the time of the present injury than if the prior
30 injury had not occurred, the employer's liability for the
31 combined disability shall be considered to be already
32 partially satisfied to the extent of the percentage of
33 disability for which the employee was previously compensated
34 by the employer minus the percentage that the employee's
35 earnings are less at the time of the present injury than if

1 the prior injury had not occurred.

2 c. A successor employer shall be considered to be the same
3 employer if the employee became part of the successor
4 employer's workforce through a merger, purchase, or other
5 transaction that assumes the employee into the successor
6 employer's workforce without substantially changing the nature
7 of the employee's employment.

8 Sec. 12. Section 85.36, subsection 9, paragraph c, Code
9 2003, is amended by striking the paragraph.

10 Sec. 13. Section 85.70, Code 2003, is amended to read as
11 follows:

12 85.70 ADDITIONAL PAYMENT FOR ATTENDANCE.

13 An employee who has sustained an injury resulting in
14 permanent partial or permanent total disability, for which
15 compensation is payable under this chapter, and who cannot
16 return to gainful employment because of such disability, shall
17 upon application to and approval by the workers' compensation
18 commissioner be entitled to a ~~twenty-dollar~~ one hundred dollar
19 weekly payment from the employer in addition to any other
20 benefit payments, during each full week in which the employee
21 is actively participating in a vocational rehabilitation
22 program recognized by the vocational rehabilitation services
23 division of the department of education. The workers'
24 compensation commissioner's approval of such application for
25 payment may be given only after a careful evaluation of
26 available facts, and after consultation with the employer or
27 the employer's representative. Judicial review of the
28 decision of the workers' compensation commissioner may be
29 obtained in accordance with the terms of the Iowa
30 administrative procedure Act and in section 86.26. Such
31 additional benefit payment shall be paid for a period not to
32 exceed thirteen consecutive weeks except that the workers'
33 compensation commissioner may extend the period of payment not
34 to exceed an additional thirteen weeks if the circumstances
35 indicate that a continuation of training will in fact

1 accomplish rehabilitation.

2 Sec. 14. Section 86.12, as published in Iowa Code
3 Supplement 2003, is reaffirmed and reenacted.

4 Sec. 15. Section 86.13A, as published in Iowa Code
5 Supplement 2003, is reaffirmed and reenacted.

6 Sec. 16. Section 86.13A, unnumbered paragraph 2, Code
7 Supplement 2003, as reaffirmed and reenacted by this Act, is
8 amended to read as follows:

9 If during any fiscal year commencing after June 30, 2005
10 2006, the general business practices of an employer or insurer
11 result in the delay of the commencement of voluntary weekly
12 compensation payments after the date specified in section
13 85.30 more frequently and for a longer number of days than the
14 average number of days for the entire group of employers or
15 insurers, the commissioner may impose an assessment on the
16 employer or insurer payable to the second injury fund created
17 in section 85.66. The amount of the assessment shall be ten
18 dollars, multiplied by the average number of days that weekly
19 compensation payments were delayed after the date specified in
20 section 85.30, and multiplied by the number of injuries the
21 employer or insurer reported during the fiscal year.

22 Notwithstanding the foregoing, an assessment shall not be
23 imposed if the employer or insurer commenced voluntary weekly
24 compensation benefits within the time specified in section
25 85.30 for more than seventy-five percent of the injuries
26 reported by the employer or insurer.

27 Sec. 17. Section 85.55, Code 2003, is repealed.

28 Sec. 18. EFFECTIVE DATE AND APPLICABILITY PROVISIONS. The
29 sections of this division of this Act amending sections 85.27,
30 85.34, 85.36, and 85.70, and repealing section 85.55, being
31 deemed of immediate importance, take effect upon enactment and
32 apply to injuries occurring on or after that date.

33 Sec. 19. EFFECTIVE DATE AND RETROACTIVE APPLICABILITY
34 PROVISIONS. The sections of this division of this Act
35 reaffirming and reenacting sections 86.12 and 86.13A and the

1 section of this division of this Act amending section 86.13A
2 as reaffirmed and reenacted, being deemed of immediate
3 importance, take effect upon enactment and are retroactively
4 applicable to injuries occurring on or after July 1, 2003.

5 Sec. 20. LEGISLATIVE INTENT. It is the intent of the
6 general assembly that this division of this Act will prevent
7 all double recoveries and all double reductions in workers'
8 compensation benefits for permanent partial disability. This
9 division modifies the fresh start and full responsibility
10 rules of law announced by the Iowa supreme court in a series
11 of judicial precedents.

12 The general assembly recognizes that the amount of
13 compensation a person receives for disability is directly
14 related to the person's earnings at the time of injury. The
15 competitive labor market determines the value of a person's
16 earning capacity through a strong correlation with the level
17 of earnings a person can achieve in the competitive labor
18 market. The market reevaluates a person as a working unit
19 each time the person competes in the competitive labor market,
20 causing a fresh start with each change of employment. The
21 market's determination effectively apportions any disability
22 through a reduced level of earnings. The market does not
23 reevaluate an employee's earning capacity while the employee
24 remains employed by the same employer.

25 The general assembly intends that an employer shall fully
26 compensate all of an injured employee's disability that is
27 caused by work-related injuries with the employer without
28 compensating the same disability more than once. This
29 division of this Act creates a formula that applies disability
30 payments made toward satisfaction of the combined disability
31 that the employer is liable for compensating, while taking
32 into account the impact of the employee's earnings on the
33 amount of compensation to be ultimately paid for the
34 disability.

35 The general assembly does not intend this division of this

1 Act to change the character of any disability from scheduled
2 to unscheduled or vice versa or to combine disabilities that
3 are not otherwise combined under law existing on the effective
4 date of this section of this division of this Act.

5 Combination of successive scheduled disabilities in section
6 85.34, subsection 7, as enacted in this division of this Act,
7 is limited to disabilities affecting the same member, such as
8 successive disabilities to the right arm. A disability to the
9 left arm that is followed by a disability to the right arm is
10 governed by section 85.64 and is not a successive disability
11 under this division. This division does not alter benefits
12 under the second injury fund, benefits for permanent total
13 disability under section 85.34, subsection 3, the method of
14 determining the degree of unscheduled permanent partial
15 disability, the compensable character of aggravation injuries,
16 or an employer's right to choose the care an injured employee
17 receives, expand the fresh start rule to scheduled
18 disabilities, or change existing law in any way that is not
19 expressly provided in this division.

20 The general assembly intends that changes in the identity
21 of the employer that do not require the employee to reenter
22 the competitive labor market will be treated as if the
23 employee remained employed by the same employer.

24 Sec. 21. EFFECTIVE DATE. Unless otherwise provided, this
25 division of this Act, being deemed of immediate importance,
26 takes effect upon enactment.

27 DIVISION V

28 FINANCIAL SERVICES

29 Sec. 22. The following provisions, as published in Iowa
30 Code Supplement 2003, pertaining to financial services, are
31 reaffirmed and reenacted:

- 32 1. Section 537.2502, subsections 3 and 6.
- 33 2. Section 537.2601, subsection 1.

34 Sec. 23. EFFECTIVE DATE AND RETROACTIVE APPLICABILITY
35 PROVISIONS. This division of this Act, being deemed of

1 immediate importance, takes effect upon enactment, and is
2 retroactively applicable to July 1, 2003.

3 DIVISION VI
4 LOAN AND CREDIT GUARANTEE PROGRAM

5 Sec. 24. The following provisions, as published in Iowa
6 Code Supplement 2003, pertaining to the economic development
7 loan and credit guarantee program, are reaffirmed and
8 reenacted:

- 9 1. Section 15E.221.
- 10 2. Section 15E.222.
- 11 3. Section 15E.223.
- 12 4. Section 15E.224.
- 13 5. Section 15E.225.

14 Sec. 25. Section 15E.223, subsection 4, Code Supplement
15 2003, as reaffirmed and reenacted by this division of this
16 Act, is amended to read as follows:

17 4. "Targeted industry business" means an existing or
18 proposed business entity, including an emerging small business
19 or qualified business which is operated for profit and which
20 has a primary business purpose of doing business in at least
21 one of the targeted industries designated by the department
22 which include life sciences, software and information
23 technology, advanced manufacturing, value-added agriculture,
24 and any other industry designated as a targeted industry by
25 the ~~loan-and-credit-guarantee-advisory-board~~ department.

26 Sec. 26. Section 15E.224, subsections 1, 3, 5, and 7, Code
27 Supplement 2003, as reaffirmed and reenacted by this division
28 of this Act, are amended to read as follows:

29 1. The department shall ~~with-the-advice-of-the-loan-and~~
30 ~~credit-guarantee-advisory-board~~ establish and administer a
31 loan and credit guarantee program. The department, pursuant
32 to agreements with financial institutions, shall provide loan
33 and credit guarantees, or other forms of credit guarantees for
34 qualified businesses and targeted industry businesses for
35 eligible project costs. A loan or credit guarantee provided

1 under the program may stand alone or may be used in
2 conjunction with or to enhance other loans or credit
3 guarantees offered by private, state, or federal entities.
4 The department may purchase insurance to cover defaulted loans
5 meeting the requirements of the program. However, the
6 department shall not in any manner directly or indirectly
7 pledge the credit of the state. Eligible project costs
8 include expenditures for productive equipment and machinery,
9 working capital for operations and export transactions,
10 research and development, marketing, and such other costs as
11 the department may so designate.

12 3. In administering the program, the department shall
13 consult and cooperate with financial institutions in this
14 state ~~and with the loan and credit guarantee advisory board.~~
15 Administrative procedures and application procedures, as
16 practicable, shall be responsive to the needs of qualified
17 businesses, targeted industry businesses, and financial
18 institutions, and shall be consistent with prudent investment
19 and lending practices and criteria.

20 5. The department ~~with the advice of the loan and credit~~
21 ~~guarantee advisory board~~ shall adopt a loan or credit
22 guarantee application procedure for a financial institution on
23 behalf of a qualified business or targeted industry business.

24 7. The department ~~with the advice of the loan and credit~~
25 ~~guarantee advisory board~~ may adopt loan and credit guarantee
26 application procedures that allow a qualified business or
27 targeted industry business to apply directly to the department
28 for a preliminary guarantee commitment. A preliminary
29 guarantee commitment may be issued by the department subject
30 to the qualified business or targeted industry business
31 securing a commitment for financing from a financial
32 institution. The application procedures shall specify the
33 process by which a financial institution may obtain a final
34 loan and credit guarantee.

35 Sec. 27. Section 15E.225, subsections 1 and 2, Code

1 Supplement 2003, as reaffirmed and reenacted by this division
2 of this Act, are amended to read as follows:

3 1. When entering into a loan or credit guarantee
4 agreement, the department, ~~with the advice of the loan and~~
5 ~~credit-guarantee advisory board,~~ shall establish fees and
6 other terms for participation in the program by qualified
7 businesses and targeted industry businesses.

8 2. The department, with due regard for the possibility of
9 losses and administrative costs ~~and with the advice of the~~
10 ~~loan and credit-guarantee advisory board,~~ shall set fees and
11 other terms at levels sufficient to assure that the program is
12 self-financing.

13 Sec. 28. Section 15E.227, subsection 2, paragraph c, Code
14 Supplement 2003, is amended by striking the paragraph.

15 Sec. 29. EFFECTIVE DATE AND RETROACTIVE APPLICABILITY
16 PROVISIONS. This division of this Act, being deemed of
17 immediate importance, takes effect upon enactment, and is
18 retroactively applicable to July 1, 2003.

19 DIVISION VII

20 ADMINISTRATIVE CONTRIBUTION SURCHARGE

21 Sec. 30. Section 96.9, subsection 8, paragraph e, Code
22 Supplement 2003, is amended to read as follows:

23 e. Moneys from interest earned on the unemployment
24 compensation reserve fund shall be used by the department only
25 upon appropriation by the general assembly ~~and only for~~
26 ~~purposes contained in section 96.7, subsection 12, for~~
27 ~~department of workforce development rural satellite offices,~~
28 and for administrative costs to collect the reserve
29 contributions.

30 Sec. 31. CODE EDITOR'S REMOVAL OF SECTION 96.7, SUBSECTION
31 12, FROM CODE. Consistent with the Iowa supreme court
32 decision of Rants and Iverson v. Vilsack, No. 60/03-1948, June
33 16, 2004, the general assembly acknowledges the Code editor's
34 removal of section 96.7, subsection 12, relating to the
35 administrative contribution surcharge and fund, from the Code,

1 due to the subsection's repeal effective July 1, 2003.

2 Sec. 32. EFFECTIVE DATE. This division of this Act, being
3 deemed of immediate importance, takes effect upon enactment
4 and applies retroactively to July 1, 2003.

5 DIVISION VIII

6 MARKETING

7 Sec. 33. Section 15G.109, as published in Iowa Code
8 Supplement 2003, pertaining to the economic development
9 marketing board, is reaffirmed and reenacted.

10 Sec. 34. Section 15G.109, subsections 1, 2, and 5, Code
11 Supplement 2003, as reaffirmed and reenacted by this division
12 of this Act, are amended by striking the subsections.

13 Sec. 35. Section 15G.109, subsections 3 and 4, Code
14 Supplement 2003, as reaffirmed and reenacted by this division
15 of this Act, are amended to read as follows:

16 ~~3-~~ The department of economic development marketing-board
17 shall accept proposals for marketing strategies for purposes
18 of selecting a strategy for the department to administer. The
19 marketing strategies shall be designed to market Iowa as a
20 lifestyle, increase the population of the state, increase the
21 wealth of Iowans, and expand and stimulate the state economy.
22 ~~The-economic-development-marketing-board-shall-submit-a~~
23 ~~recommendation-regarding-the-proposal-to-the-grow-Iowa-values~~
24 ~~board.--In-selecting-a-marketing-strategy-for-recommendation,~~
25 ~~the-economic-development-marketing-board-shall-base-the~~
26 ~~selection-on-the-goals-and-performance-measures-provided-in~~
27 ~~section-15G.107.--The-grow-Iowa-values-board-shall-either~~
28 ~~approve-or-deny-the-recommendation.~~ The department shall
29 select and approve a proposal that meets the requirements of
30 this subsection.

31 ~~4-~~ The department shall implement and administer the
32 approved marketing strategy approved-by-the-grow-Iowa-values
33 ~~board-as-provided-in-subsection-3.~~ The department shall
34 ~~provide-the-economic-development-marketing-board-with~~
35 ~~assistance-in-implementing-administrative-functions-of-the~~

1 ~~board-and-provide-technical-assistance-to-the-board-~~

2 Sec. 36. EFFECTIVE DATE AND RETROACTIVE APPLICABILITY.

3 This division of this Act, being deemed of immediate
4 importance, takes effect upon enactment. The section of this
5 division of this Act reaffirming and reenacting Code section
6 15G.109 is retroactively applicable to July 1, 2003.

7

DIVISION IX

8

INCOME TAXATION

9

BONUS DEPRECIATION AND EXPENSING ALLOWANCE

10 Sec. 37. Section 422.3, subsection 5, Code Supplement
11 2003, is amended to read as follows:

12 5. "Internal Revenue Code" means the Internal Revenue Code
13 of 1954, prior to the date of its redesignation as the
14 Internal Revenue Code of 1986 by the Tax Reform Act of 1986,
15 or means the Internal Revenue Code of 1986 as amended to and
16 including January 1, 2003, and as amended by Pub. L. No. 108-
17 27, section 202, whichever is applicable.

18 Sec. 38. Section 422.7, subsection 39, Code Supplement
19 2003, is amended to read as follows:

20 39. a. The additional first-year depreciation allowance
21 authorized in section 168(k) of the Internal Revenue Code, as
22 enacted by Pub. L. No. 107-147, section 101, does not apply in
23 computing net income for state tax purposes. If the taxpayer
24 has taken such deduction in computing federal adjusted gross
25 income, the following adjustments shall be made:

26 a- (1) Add the total amount of depreciation taken on all
27 property for which the election under section 168(k) of the
28 Internal Revenue Code was made for the tax year.

29 b- (2) Subtract an amount equal to depreciation taken
30 allowed on such property for the tax year using the modified
31 accelerated cost recovery system depreciation method
32 applicable under section 168 of the Internal Revenue Code
33 without regard to section 168(k).

34 c- (3) Any other adjustments to gains or losses to
35 reflect the adjustments made in paragraphs-"a"-and-"b"

1 subparagraphs (1) and (2) pursuant to rules adopted by the
2 director.

3 b. The additional first-year depreciation allowance
4 authorized in section 168(k)(4) of the Internal Revenue Code,
5 as enacted by Pub. L. No. 108-27, shall apply in computing net
6 income for state tax purposes, for qualified property acquired
7 after May 5, 2003, and before January 1, 2005.

8 Sec. 39. Section 422.32, subsection 7, Code Supplement
9 2003, is amended to read as follows:

10 7. "Internal Revenue Code" means the Internal Revenue Code
11 of 1954, prior to the date of its redesignation as the
12 Internal Revenue Code of 1986 by the Tax Reform Act of 1986,
13 or means the Internal Revenue Code of 1986 as amended to and
14 including January 1, 2003, and as amended by Pub. L. No. 108-
15 27, section 202, whichever is applicable.

16 Sec. 40. Section 422.35, subsection 19, Code Supplement
17 2003, is amended to read as follows:

18 19. a. The additional first-year depreciation allowance
19 authorized in section 168(k) of the Internal Revenue Code, as
20 enacted by Pub. L. No. 107-147, section 101, does not apply in
21 computing net income for state tax purposes. If the taxpayer
22 has taken such deduction in computing taxable income, the
23 following adjustments shall be made:

24 a- (1) Add the total amount of depreciation taken on all
25 property for which the election under section 168(k) of the
26 Internal Revenue Code was made for the tax year.

27 b- (2) Subtract an amount equal to depreciation ~~taken~~
28 allowed on such property for the tax year using the modified
29 accelerated cost recovery system depreciation method
30 applicable under section 168 of the Internal Revenue Code
31 without regard to section 168(k).

32 c- (3) Any other adjustments to gains or losses to
33 reflect the adjustments made in ~~paragraphs "a" and "b"~~
34 subparagraphs (1) and (2) pursuant to rules adopted by the
35 director.

1 findings regarding the invalidity of provisions originally
2 contained in 2003 Iowa Acts, House File 692, due to the Iowa
3 supreme court decision of Rants and Iverson v. Vilsack.
4 Legislative intent is stated to reaffirm and reenact certain
5 invalidated provisions. The provisions affected were
6 published in the 2003 Iowa Code Supplement or amended in the
7 2004 regular legislative session.

8 ENDOW IOWA GRANTS. This division reaffirms and reenacts
9 provisions relating to endow Iowa grants.

10 CIVIL ACTION APPEAL BONDS. This division reaffirms and
11 reenacts provisions pertaining to supersedeas bonds, including
12 provisions contained in 2004 Iowa Acts, Senate File 2306, that
13 were invalidated by the Iowa supreme court decision. Senate
14 File 2306 is repealed. The division provides that the
15 provision reenacting Senate File 2306 applies retroactively to
16 cases pending and filed on or after April 20, 2004, and
17 through June 15, 2004, and to cases pending or filed on or
18 after June 16, 2004.

19 WORKERS' COMPENSATION. This division relates to certain
20 benefits and procedures related to workers' compensation and
21 contains an expression of legislative intent concerning the
22 changes made.

23 Code section 85.27, subsection 4, is amended to provide
24 that if an employer chooses medical care, the employer shall
25 hold the employee harmless for the cost of care until the
26 employer notifies the employee that the employer is no longer
27 authorizing all or part of the care and the reason for the
28 change in authorization. Also, an employer is not liable for
29 the cost of care that the employer arranges in response to a
30 sudden emergency if the employee's condition, for which care
31 was arranged, is not related to the employment.

32 Code section 85.34, subsection 2, paragraph "u", is amended
33 to provide that compensation for permanent partial disability
34 for nonscheduled injuries shall be paid for the number of
35 weeks in relation to 500 weeks as the reduction in the

1 employee's earning capacity caused by the disability bears in
2 relation to the earning capacity that the employee possessed
3 when the injury occurred.

4 Code section 85.34 is also amended by adding a new
5 subsection concerning compensation for successive
6 disabilities. The new subsection provides that an employer is
7 fully liable for compensating all of an employee's disability
8 that arises out of and in the course of the employee's
9 employment with the employer. The new subsection provides
10 that an employer is not liable for compensating an employee's
11 preexisting disability that arose out of and in the course of
12 employment with a different employer or from causes unrelated
13 to employment.

14 The amendment to Code section 85.34 also provides that if
15 an injured employee has a preexisting disability that was
16 caused by a prior injury arising out of and in the course of
17 employment with the same employer, and the preexisting
18 disability was compensable as a permanent partial disability
19 under the same paragraph of Code section 85.34, subsection 2,
20 as the employee's present injury, the employer is liable for
21 the combined disability that is caused by the injuries,
22 measured in relation to the employee's condition immediately
23 prior to the first injury. In this situation, the employer's
24 liability for the combined disability of the employee is
25 considered to be already partially satisfied to the extent of
26 the percentage of disability for which the employee was
27 previously paid by the employer.

28 The amendment to Code section 85.34 also provides that if
29 an employer is liable to an employee for a combined disability
30 that is payable under Code section 85.34, subsection 2,
31 paragraph "u", as a nonscheduled permanent partial disability,
32 and the employee has a preexisting disability that causes the
33 employee's earnings to be less at the time of the present
34 injury than if the prior injury had not occurred, the
35 employer's liability for the combined disability shall be

1 considered to be already partially satisfied to the extent of
2 the percentage of disability for which the employee was
3 previously compensated by the employer minus the percentage
4 that the employee's earning capacity is less at the time of
5 the present injury than if the prior injury had not occurred.

6 The amendment to Code section 85.34 also provides that a
7 successor employer is considered to be the same employer for
8 the purposes of Code section 85.34 if the employee became part
9 of the successor employer's workforce through a merger,
10 purchase, or other transaction that assumes the employee into
11 the successor employer's workforce without substantially
12 changing the nature of the employee's employment.

13 Code section 85.36, subsection 9, paragraph "c", which
14 deals with apportionment of liability for successive
15 disabilities, is stricken.

16 Code section 85.70 is amended to provide that an injured
17 employee with a permanent disability who actively participates
18 in a vocational rehabilitation program shall be paid \$100
19 instead of \$20 each week by the employer during each week of
20 participation in addition to any other benefit payments.

21 Code section 86.12 is reaffirmed and reenacted, after being
22 held to be invalid by the Iowa supreme court. This provision
23 allows the workers' compensation commissioner to subject
24 employers to assessments for failure to report certain
25 information to the commissioner. The division makes this
26 provision effective upon enactment and retroactively
27 applicable to injuries occurring on or after July 1, 2003.

28 Code section 86.13A is reaffirmed and reenacted, after
29 being held to be invalid by the Iowa supreme court. This
30 provision requires the workers' compensation commissioner to
31 monitor the rate of compliance of employers and insurers in
32 timely commencing benefit payments to injured employees. In
33 this division, the provision is amended to provide that after
34 June 30, 2006, the commissioner may impose assessments against
35 employers and insurers for certain delays in commencing

1 benefit payments. The division makes this provision effective
2 upon enactment and retroactively applicable to injuries
3 occurring on or after July 1, 2003.

4 Code section 85.55, which allows an employee with a
5 physical defect that increases the risk of injury to waive
6 workers' compensation for injuries occurring directly or
7 indirectly because of such defect, is repealed.

8 With the exception of the provisions concerning Code
9 sections 86.12 and 86.13A, the bill takes effect upon
10 enactment and is applicable to injuries occurring on or after
11 that date. The provisions concerning Code sections 86.12 and
12 86.13A take effect upon enactment and are retroactively
13 applicable to injuries occurring on or after July 1, 2003.

14 FINANCIAL SERVICES. This division reaffirms and reenacts
15 requirements involving the delinquency charges collectible
16 relative to certain consumer credit transactions and authority
17 to contract for debt payment under credit transactions other
18 than consumer credit transactions.

19 LOAN AND CREDIT GUARANTEE PROGRAM. This division reaffirms
20 and reenacts provisions relating to the loan and credit
21 guarantee program directed to relatively small businesses and
22 industries targeted to particular areas of commerce. The
23 division does not reenact the loan and credit guarantee
24 advisory board and makes conforming amendments.

25 ADMINISTRATIVE CONTRIBUTION SURCHARGE. This division
26 acknowledges the Iowa Code editor's removal of references from
27 the Iowa Code to the administrative contribution surcharge and
28 fund due to their repeal effective July 1, 2003. This repeal
29 results from the Iowa supreme court decision making House File
30 692, dealing with the grow Iowa values fund, invalid, which
31 also made the extension of the surcharge and fund invalid.

32 The division takes effect upon enactment and applies
33 retroactively to July 1, 2003.

34 MARKETING. This division reaffirms and reenacts the
35 economic development marketing board and its approval process

1 for marketing strategies. However, the division amends the
2 reaffirmed and reenacted provisions by providing that the
3 department of economic development, rather than the marketing
4 board which is not reestablished, shall accept proposals for
5 marketing strategies for purposes of selecting a strategy for
6 the department to administer. The division provides that the
7 department shall select and approve a proposal that meets
8 certain criteria and that the department shall implement and
9 administer the approved marketing strategy. The provisions
10 amending the economic development marketing board do not apply
11 retroactively.

12 INCOME TAXATION BONUS DEPRECIATION AND EXPENSING ALLOWANCE.

13 This division includes in the references to the Internal
14 Revenue Code the federal income tax revisions enacted by
15 Congress in regard to expensing certain depreciable assets and
16 making these changes applicable for Iowa income tax purposes.

17 The division amends Code sections 422.7 and 422.35 to
18 couple with the changes to the bonus depreciation deduction
19 enacted in the federal Jobs and Growth Tax Relief
20 Reconciliation Act of 2003 (Pub. L. No. 108-27). The bonus
21 depreciation of 50 percent allowed in that law is allowed for
22 state income tax purposes for qualified property acquired
23 after May 5, 2003, and before January 1, 2005.

24 The provisions of the division coupling with federal
25 expensing changes are retroactively applicable to January 1,
26 2003, for tax years beginning on or after that date. The
27 provisions of the division coupling with the changes to the
28 federal bonus depreciation apply retroactively to tax years
29 ending after May 5, 2003.

30 The division takes effect upon enactment.

31 ADVISORY CAPACITY OF BOARDS. This division provides that,
32 for only the fiscal year beginning July 1, 2004, and ending
33 June 30, 2005, the grow Iowa values board, the establishment
34 and existence of the economic development marketing board, and
35 the loan and credit guarantee advisory board, as provided for

1 in 2003 Iowa Acts, First Extraordinary Session, chapter 1
2 (House File 692), are validated. However, the boards shall
3 serve only in an advisory capacity to the department of
4 economic development. The composition of the boards shall
5 consist of the membership in existence on June 15, 2004. This
6 division takes effect upon enactment.

7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35

Senate Study Bill 3180Succeeded By
SF/HF 2312SSB
3180**Bill Text**

PAG LIN

PAG LIN

1 1 DIVISION I
 1 2 LEGISLATIVE FINDINGS
 1 3 Section 1. LEGISLATIVE FINDINGS. It is the finding of the
 1 4 general assembly that the recent Iowa supreme court decision
 1 5 of Rants and Iverson v. Vilsack, No. 60/03=1948, June 16,
 1 6 2004, has invalidated the proper enactment of provisions
 1 7 contained in 2003 Iowa Acts, First Extraordinary Session,
 1 8 chapter 1 (House File 692). It is the intent of the general
 1 9 assembly to reenact and reaffirm certain provisions of House
 1 10 File 692 that were published in the 2003 Iowa Code Supplement,
 1 11 including provisions that were subsequently amended in the
 1 12 2004 regular session of the Eightieth General Assembly and

1 13 validate contracts entered into in reliance on the enactment
 1 14 of provisions published in the 2003 Code Supplement.
 1 15 Sec. 2. EFFECTIVE DATE. This division of this Act, being
 1 16 deemed of immediate importance, takes effect upon enactment.

1 17 DIVISION II
 1 18 ENDOW IOWA GRANTS
 1 19 Sec. 3. The following provisions, as published in Iowa
 1 20 Code Supplement 2003, pertaining to endow Iowa grants, are
 1 21 reaffirmed and reenacted:

- 1 22 1. Section 15E.301.
- 1 23 2. Section 15E.302.
- 1 24 3. Section 15E.303.
- 1 25 4. Section 15E.304.
- 1 26 5. Section 15E.306.

1 27 Sec. 4. EFFECTIVE DATE AND RETROACTIVE APPLICABILITY
 1 28 PROVISIONS. This division of this Act, being deemed of
 1 29 immediate importance, takes effect upon enactment, and is
 1 30 retroactively applicable to January 1, 2003, for tax years

1 31 beginning on or after that date.

1 32 DIVISION III
 1 33 CIVIL ACTION APPEAL BONDS
 1 34 Sec. 5. Section 625A.9, as published in Iowa Code
 1 35 Supplement 2003, pertaining to supersedeas bonds, is
 2 1 reaffirmed and reenacted.
 2 2 Sec. 6. Section 625A.9, subsection 2, Code Supplement
 2 3 2003, as reaffirmed and reenacted by this division of this
 2 4 Act, is amended to read as follows:

2 5 2. a. ~~If~~ Except as provided in paragraph "b", if the
 2 6 judgment or order appealed from is for money, such bond shall
 2 7 not exceed one hundred ten percent of the amount of the money
 2 8 judgment.

2 9 The court may set a bond in an amount in excess of one

SSB
3180

2 10 hundred ten percent of the amount of the money judgment upon
 2 11 making specific findings justifying such an amount, and in
 2 12 doing so, shall consider, but shall not be limited to
 2 13 consideration of, the following criteria:

2 14 (1) The availability and cost of the bond or other form of
 2 15 adequate security.

2 16 (2) The assets of the judgment debtor and of the judgment
 2 17 debtor's insurer or indemnitor, if any.

2 18 (3) The potential adverse effects of the bond on the
 2 19 judgment debtor, including, but not limited to, the potential
 2 20 adverse effects on the judgment debtor's employees, financial
 2 21 stability, and business operations.

2 22 (4) The potential adverse effects of the bond on the
 2 23 judgment creditor and third parties, including public

2 24 entities.

2 25 (5) In a class action suit, the adequacy of the bond to
 2 26 compensate all members of the class.

2 27 b. Notwithstanding paragraph "a", in no case shall a bond
 2 28 exceed one hundred million dollars, regardless of the value of
 2 29 the money judgment. This limitation shall not apply in cases
 2 30 where the court finds that the defendant intentionally

2 31 dissipated the defendant's assets outside the ordinary course
 2 32 of business for the purpose of evading payment of the
 2 33 judgment.

2 34 Sec. 7. 2004 Iowa Acts, Senate File 2306, is repealed.

2 35 Sec. 8. EFFECTIVE DATE AND RETROACTIVE APPLICABILITY

3 1 PROVISIONS.

3 2 1. The section of this division of this Act reaffirming
 3 3 and reenacting section 625A.9, being deemed of immediate

3 4 importance, takes effect upon enactment, and applies
 3 5 retroactively to July 1, 2003.

3 6 2. The section of this division of this Act amending
 3 7 section 625A.9, as reaffirmed and reenacted by this division
 3 8 of this Act, being deemed of immediate importance, takes
 3 9 effect upon enactment of this Act, and applies retroactively
 3 10 to cases pending and filed on or after April 20, 2004, and
 3 11 through June 15, 2004, and to cases pending or filed on or
 3 12 after June 16, 2004.

3 13 3. The section of this division of this Act repealing 2004
 3 14 Iowa Acts, Senate File 2306, being deemed of immediate
 3 15 importance, takes effect upon enactment.

3 16 4. This section of this division of this Act, being deemed
 3 17 of immediate importance, takes effect upon enactment.

3 18 DIVISION IV

3 19 WORKERS' COMPENSATION

3 20 Sec. 9. Section 85.27, subsection 4, Code 2003, is amended
 3 21 to read as follows:

3 22 4. For purposes of this section, the employer is obliged
 3 23 to furnish reasonable services and supplies to treat an
 3 24 injured employee, and has the right to choose the care. If
 3 25 the employer chooses the care, the employer shall hold the
 3 26 employee harmless for the cost of care until the employer
 3 27 notifies the employee that the employer is no longer
 3 28 authorizing all or any part of the care and the reason for the

SSB
3180

3 29 change in authorization. An employer is not liable for the

3 30 cost of care that the employer arranges in response to a
3 31 sudden emergency if the employee's condition, for which care
3 32 was arranged, is not related to the employment. The treatment
3 33 must be offered promptly and be reasonably suited to treat the
3 34 injury without undue inconvenience to the employee. If the
3 35 employee has reason to be dissatisfied with the care offered,
4 1 the employee should communicate the basis of such
4 2 dissatisfaction to the employer, in writing if requested,

4 3 following which the employer and the employee may agree to
4 4 alternate care reasonably suited to treat the injury. If the
4 5 employer and employee cannot agree on such alternate care, the
4 6 commissioner may, upon application and reasonable proofs of
4 7 the necessity therefor, allow and order other care. In an
4 8 emergency, the employee may choose the employee's care at the
4 9 employer's expense, provided the employer or the employer's
4 10 agent cannot be reached immediately. An application made
4 11 under this subsection shall be considered an original

4 12 proceeding for purposes of commencement and contested case
4 13 proceedings under section 85.26. The hearing shall be
4 14 conducted pursuant to chapter 17A. Before a hearing is
4 15 scheduled, the parties may choose a telephone hearing or an
4 16 in-person hearing. A request for an in-person hearing shall
4 17 be approved unless the in-person hearing would be impractical
4 18 because of the distance between the parties to the hearing.
4 19 The workers' compensation commissioner shall issue a decision
4 20 within ten working days of receipt of an application for

4 21 alternate care made pursuant to a telephone hearing or within
4 22 fourteen working days of receipt of an application for
4 23 alternate care made pursuant to an in-person hearing. The
4 24 employer shall notify an injured employee of the employee's
4 25 ability to contest the employer's choice of care pursuant to
4 26 this subsection.

4 27 Sec. 10. Section 85.34, subsection 2, paragraph u, Code
4 28 2003, is amended to read as follows:

4 29 u. In all cases of permanent partial disability other than

4 30 those hereinabove described or referred to in paragraphs "a"
4 31 through "i" hereof, the compensation shall be paid during the
4 32 number of weeks in relation to five hundred weeks as the
4 33 reduction in the employee's earning capacity caused by the
4 34 disability bears in relation to the ~~body of the injured~~

4 35 earning capacity that the employee ~~as a whole~~ possessed when
5 1 the injury occurred.

5 2 Sec. 11. Section 85.34, Code 2003, is amended by adding
5 3 the following new subsection:

5 4 NEW SUBSECTION. 7. SUCCESSIVE DISABILITIES.

5 5 a. An employer is fully liable for compensating all of an
5 6 employee's disability that arises out of and in the course of
5 7 the employee's employment with the employer. An employer is
5 8 not liable for compensating an employee's preexisting
5 9 disability that arose out of and in the course of employment
5 10 with a different employer or from causes unrelated to
5 11 employment.

SSB
3180

5 12 b. If an injured employee has a preexisting disability
5 13 that was caused by a prior injury arising out of and in the

5 14 course of employment with the same employer, and the
5 15 preexisting disability was compensable under the same
5 16 paragraph of section 85.34, subsection 2, as the employee's
5 17 present injury, the employer is liable for the combined
5 18 disability that is caused by the injuries, measured in
5 19 relation to the employee's condition immediately prior to the
5 20 first injury. In this instance, the employer's liability for
5 21 the combined disability shall be considered to be already
5 22 partially satisfied to the extent of the percentage of

5 23 disability for which the employee was previously compensated
5 24 by the employer.

5 25 If, however, an employer is liable to an employee for a
5 26 combined disability that is payable under section 85.34,
5 27 subsection 2, paragraph "u", and the employee has a
5 28 preexisting disability that causes the employee's earnings to
5 29 be less at the time of the present injury than if the prior
5 30 injury had not occurred, the employer's liability for the
5 31 combined disability shall be considered to be already

5 32 partially satisfied to the extent of the percentage of
5 33 disability for which the employee was previously compensated
5 34 by the employer minus the percentage that the employee's
5 35 earnings are less at the time of the present injury than if
6 1 the prior injury had not occurred.

6 2 c. A successor employer shall be considered to be the same
6 3 employer if the employee became part of the successor
6 4 employer's workforce through a merger, purchase, or other
6 5 transaction that assumes the employee into the successor

6 6 employer's workforce without substantially changing the nature
6 7 of the employee's employment.

6 8 Sec. 12. Section 85.36, subsection 9, paragraph c, Code
6 9 2003, is amended by striking the paragraph.

6 10 Sec. 13. Section 85.70, Code 2003, is amended to read as
6 11 follows:

6 12 85.70 ADDITIONAL PAYMENT FOR ATTENDANCE.

6 13 An employee who has sustained an injury resulting in
6 14 permanent partial or permanent total disability, for which

6 15 compensation is payable under this chapter, and who cannot
6 16 return to gainful employment because of such disability, shall
6 17 upon application to and approval by the workers' compensation
6 18 commissioner be entitled to a ~~twenty-dollar~~ one hundred dollar
6 19 weekly payment from the employer in addition to any other
6 20 benefit payments, during each full week in which the employee
6 21 is actively participating in a vocational rehabilitation

6 22 program recognized by the vocational rehabilitation services
6 23 division of the department of education. The workers'
6 24 compensation commissioner's approval of such application for
6 25 payment may be given only after a careful evaluation of
6 26 available facts, and after consultation with the employer or
6 27 the employer's representative. Judicial review of the
6 28 decision of the workers' compensation commissioner may be
6 29 obtained in accordance with the terms of the Iowa
6 30 administrative procedure Act and in section 86.26. Such

SSB
3180

6 31 additional benefit payment shall be paid for a period not to
6 32 exceed thirteen consecutive weeks except that the workers'
6 33 compensation commissioner may extend the period of payment not
6 34 to exceed an additional thirteen weeks if the circumstances
6 35 indicate that a continuation of training will in fact
7 1 accomplish rehabilitation.

7 2 Sec. 14. Section 86.12, as published in Iowa Code
7 3 Supplement 2003, is reaffirmed and reenacted.

7 4 Sec. 15. Section 86.13A, as published in Iowa Code

7 5 Supplement 2003, is reaffirmed and reenacted.

7 6 Sec. 16. Section 86.13A, unnumbered paragraph 2, Code
7 7 Supplement 2003, as reaffirmed and reenacted by this Act, is
7 8 amended to read as follows:

7 9 If during any fiscal year commencing after June 30, ~~2005~~
7 10 2006, the general business practices of an employer or insurer
7 11 result in the delay of the commencement of voluntary weekly

7 12 compensation payments after the date specified in section
7 13 85.30 more frequently and for a longer number of days than the
7 14 average number of days for the entire group of employers or
7 15 insurers, the commissioner may impose an assessment on the
7 16 employer or insurer payable to the second injury fund created
7 17 in section 85.66. The amount of the assessment shall be ten
7 18 dollars, multiplied by the average number of days that weekly
7 19 compensation payments were delayed after the date specified in
7 20 section 85.30, and multiplied by the number of injuries the

7 21 employer or insurer reported during the fiscal year.

7 22 Notwithstanding the foregoing, an assessment shall not be
7 23 imposed if the employer or insurer commenced voluntary weekly
7 24 compensation benefits within the time specified in section
7 25 85.30 for more than seventy-five percent of the injuries
7 26 reported by the employer or insurer.

7 27 Sec. 17. Section 85.55, Code 2003, is repealed.

7 28 Sec. 18. EFFECTIVE DATE AND APPLICABILITY PROVISIONS. The
7 29 sections of this division of this Act amending sections 85.27,

7 30 85.34, 85.36, and 85.70, and repealing section 85.55, being
7 31 deemed of immediate importance, take effect upon enactment and
7 32 apply to injuries occurring on or after that date.

7 33 Sec. 19. EFFECTIVE DATE AND RETROACTIVE APPLICABILITY
7 34 PROVISIONS. The sections of this division of this Act
7 35 reaffirming and reenacting sections 86.12 and 86.13A and the
8 1 section of this division of this Act amending section 86.13A
8 2 as reaffirmed and reenacted, being deemed of immediate
8 3 importance, take effect upon enactment and are retroactively

8 4 applicable to injuries occurring on or after July 1, 2003.

8 5 Sec. 20. LEGISLATIVE INTENT. It is the intent of the
8 6 general assembly that this division of this Act will prevent
8 7 all double recoveries and all double reductions in workers'
8 8 compensation benefits for permanent partial disability. This
8 9 division modifies the fresh start and full responsibility
8 10 rules of law announced by the Iowa supreme court in a series
8 11 of judicial precedents.

8 12 The general assembly recognizes that the amount of

8 13 compensation a person receives for disability is directly

SSB
3180

8 14 related to the person's earnings at the time of injury. The
 8 15 competitive labor market determines the value of a person's
 8 16 earning capacity through a strong correlation with the level
 8 17 of earnings a person can achieve in the competitive labor
 8 18 market. The market reevaluates a person as a working unit
 8 19 each time the person competes in the competitive labor market,
 8 20 causing a fresh start with each change of employment. The
 8 21 market's determination effectively apportions any disability

8 22 through a reduced level of earnings. The market does not
 8 23 reevaluate an employee's earning capacity while the employee
 8 24 remains employed by the same employer.

8 25 The general assembly intends that an employer shall fully
 8 26 compensate all of an injured employee's disability that is
 8 27 caused by work-related injuries with the employer without
 8 28 compensating the same disability more than once. This
 8 29 division of this Act creates a formula that applies disability
 8 30 payments made toward satisfaction of the combined disability

8 31 that the employer is liable for compensating, while taking
 8 32 into account the impact of the employee's earnings on the
 8 33 amount of compensation to be ultimately paid for the
 8 34 disability.

8 35 The general assembly does not intend this division of this
 9 1 Act to change the character of any disability from scheduled
 9 2 to unscheduled or vice versa or to combine disabilities that
 9 3 are not otherwise combined under law existing on the effective
 9 4 date of this section of this division of this Act.

9 5 Combination of successive scheduled disabilities in section
 9 6 85.34, subsection 7, as enacted in this division of this Act,
 9 7 is limited to disabilities affecting the same member, such as
 9 8 successive disabilities to the right arm. A disability to the
 9 9 left arm that is followed by a disability to the right arm is
 9 10 governed by section 85.64 and is not a successive disability
 9 11 under this division. This division does not alter benefits
 9 12 under the second injury fund, benefits for permanent total
 9 13 disability under section 85.34, subsection 3, the method of

9 14 determining the degree of unscheduled permanent partial
 9 15 disability, the compensable character of aggravation injuries,
 9 16 or an employer's right to choose the care an injured employee
 9 17 receives, expand the fresh start rule to scheduled
 9 18 disabilities, or change existing law in any way that is not
 9 19 expressly provided in this division.

9 20 The general assembly intends that changes in the identity
 9 21 of the employer that do not require the employee to reenter
 9 22 the competitive labor market will be treated as if the

9 23 employee remained employed by the same employer.

9 24 Sec. 21. EFFECTIVE DATE. Unless otherwise provided, this
 9 25 division of this Act, being deemed of immediate importance,
 9 26 takes effect upon enactment.

9 27 DIVISION V
 9 28 FINANCIAL SERVICES

9 29 Sec. 22. The following provisions, as published in Iowa
 9 30 Code Supplement 2003, pertaining to financial services, are
 9 31 reaffirmed and reenacted:

9 32 1. Section 537.2502, subsections 3 and 6.

SSB
3180

9 33 2. Section 537.2601, subsection 1.
9 34 Sec. 23. EFFECTIVE DATE AND RETROACTIVE APPLICABILITY
9 35 PROVISIONS. This division of this Act, being deemed of
10 1 immediate importance, takes effect upon enactment, and is
10 2 retroactively applicable to July 1, 2003.
10 3 DIVISION VI
10 4 LOAN AND CREDIT GUARANTEE PROGRAM
10 5 Sec. 24. The following provisions, as published in Iowa

10 6 Code Supplement 2003, pertaining to the economic development
10 7 loan and credit guarantee program, are reaffirmed and
10 8 reenacted:
10 9 1. Section 15E.221.
10 10 2. Section 15E.222.
10 11 3. Section 15E.223.
10 12 4. Section 15E.224.
10 13 5. Section 15E.225.
10 14 Sec. 25. Section 15E.223, subsection 4, Code Supplement

10 15 2003, as reaffirmed and reenacted by this division of this
10 16 Act, is amended to read as follows:
10 17 4. "Targeted industry business" means an existing or
10 18 proposed business entity, including an emerging small business
10 19 or qualified business which is operated for profit and which
10 20 has a primary business purpose of doing business in at least
10 21 one of the targeted industries designated by the department
10 22 which include life sciences, software and information
10 23 technology, advanced manufacturing, value-added agriculture,

10 24 and any other industry designated as a targeted industry by
10 25 the ~~loan and credit guarantee advisory board~~ department.
10 26 Sec. 26. Section 15E.224, subsections 1, 3, 5, and 7, Code
10 27 Supplement 2003, as reaffirmed and reenacted by this division
10 28 of this Act, are amended to read as follows:
10 29 1. The department shall, ~~with the advice of the loan and~~
~~10 30 credit guarantee advisory board~~, establish and administer a
10 31 loan and credit guarantee program. The department, pursuant
10 32 to agreements with financial institutions, shall provide loan
10 33 and credit guarantees, or other forms of credit guarantees for
10 34 qualified businesses and targeted industry businesses for
10 35 eligible project costs. A loan or credit guarantee provided
11 1 under the program may stand alone or may be used in
11 2 conjunction with or to enhance other loans or credit

11 3 guarantees offered by private, state, or federal entities.
11 4 The department may purchase insurance to cover defaulted loans
11 5 meeting the requirements of the program. However, the
11 6 department shall not in any manner directly or indirectly
11 7 pledge the credit of the state. Eligible project costs
11 8 include expenditures for productive equipment and machinery,
11 9 working capital for operations and export transactions,
11 10 research and development, marketing, and such other costs as
11 11 the department may so designate.

11 12 3. In administering the program, the department shall
11 13 consult and cooperate with financial institutions in this
11 14 state ~~and with the loan and credit guarantee advisory board~~.
11 15 Administrative procedures and application procedures, as
11 16 practicable, shall be responsive to the needs of qualified

SSB
3180

11 17 businesses, targeted industry businesses, and financial
11 18 institutions, and shall be consistent with prudent investment
11 19 and lending practices and criteria.

11 20 5. The department, ~~with the advice of the loan and credit~~
11 21 ~~guarantee advisory board,~~ shall adopt a loan or credit
11 22 guarantee application procedure for a financial institution on
11 23 behalf of a qualified business or targeted industry business.

11 24 7. The department, ~~with the advice of the loan and credit~~
11 25 ~~guarantee advisory board,~~ may adopt loan and credit guarantee

11 26 application procedures that allow a qualified business or
11 27 targeted industry business to apply directly to the department
11 28 for a preliminary guarantee commitment. A preliminary
11 29 guarantee commitment may be issued by the department subject
11 30 to the qualified business or targeted industry business
11 31 securing a commitment for financing from a financial
11 32 institution. The application procedures shall specify the
11 33 process by which a financial institution may obtain a final
11 34 loan and credit guarantee.

11 35 Sec. 27. Section 15E.225, subsections 1 and 2, Code
12 1 Supplement 2003, as reaffirmed and reenacted by this division
12 2 of this Act, are amended to read as follows:

12 3 1. When entering into a loan or credit guarantee
12 4 agreement, the department, ~~with the advice of the loan and~~
12 5 ~~credit guarantee advisory board,~~ shall establish fees and
12 6 other terms for participation in the program by qualified

12 7 businesses and targeted industry businesses.

12 8 2. The department, with due regard for the possibility of
12 9 losses and administrative costs ~~and with the advice of the~~
12 10 ~~loan and credit guarantee advisory board,~~ shall set fees and
12 11 other terms at levels sufficient to assure that the program is
12 12 self-financing.

12 13 Sec. 28. Section 15E.227, subsection 2, paragraph e, Code
12 14 Supplement 2003, is amended by striking the paragraph.

12 15 Sec. 29. EFFECTIVE DATE AND RETROACTIVE APPLICABILITY
12 16 PROVISIONS. This division of this Act, being deemed of
12 17 immediate importance, takes effect upon enactment, and is
12 18 retroactively applicable to July 1, 2003.

12 19 DIVISION VII

12 20 ADMINISTRATIVE CONTRIBUTION SURCHARGE

12 21 Sec. 30. Section 96.9, subsection 8, paragraph e, Code
12 22 Supplement 2003, is amended to read as follows:

12 23 e. Moneys from interest earned on the unemployment

12 24 compensation reserve fund shall be used by the department only
12 25 upon appropriation by the general assembly ~~and only for~~
12 26 ~~purposes contained in section 96.7, subsection 12, for~~
12 27 ~~department of workforce development rural catalytic offices,~~
12 28 ~~and for administrative costs to collect the reserve~~
12 29 contributions.

12 30 Sec. 31. CODE EDITOR'S REMOVAL OF SECTION 96.7, SUBSECTION
12 31 12, FROM CODE. Consistent with the Iowa supreme court

12 32 decision of Rants and Iverson v. Vilsack, No. 60/03=1948, June
12 33 16, 2004, the general assembly acknowledges the Code editor's
12 34 removal of section 96.7, subsection 12, relating to the

SSB
3180

12 35 administrative contribution surcharge and fund, from the Code,
13 1 due to the subsection's repeal effective July 1, 2003.

13 2 Sec. 32. EFFECTIVE DATE. This division of this Act, being
13 3 deemed of immediate importance, takes effect upon enactment
13 4 and applies retroactively to July 1, 2003.

13 5 DIVISION VIII

13 6 MARKETING

13 7 Sec. 33. Section 15G.109, as published in Iowa Code
13 8 Supplement 2003, pertaining to the economic development
13 9 marketing board, is reaffirmed and reenacted.

13 10 Sec. 34. Section 15G.109, subsections 1, 2, and 5, Code
13 11 Supplement 2003, as reaffirmed and reenacted by this division
13 12 of this Act, are amended by striking the subsections.

13 13 Sec. 35. Section 15G.109, subsections 3 and 4, Code
13 14 Supplement 2003, as reaffirmed and reenacted by this division

13 15 of this Act, are amended to read as follows:

13 16 ~~3-~~ The department of economic development ~~marketing board~~
13 17 shall accept proposals for marketing strategies for purposes
13 18 of selecting a strategy for the department to administer. The
13 19 marketing strategies shall be designed to market Iowa as a

13 20 lifestyle, increase the population of the state, increase the
13 21 wealth of Iowans, and expand and stimulate the state economy.

~~13 22 The economic development marketing board shall submit a
13 23 recommendation regarding the proposal to the grow Iowa values
13 24 board. In selecting a marketing strategy for recommendation,
13 25 the economic development marketing board shall base the
13 26 selection on the goals and performance measures provided in
13 27 section 15G.107. The grow Iowa values board shall either~~

~~13 28 approve or deny the recommendation. The department shall
13 29 select and approve a proposal that meets the requirements of
13 30 this subsection.~~

13 31 ~~4-~~ The department shall implement and administer the
13 32 approved marketing strategy ~~approved by the grow Iowa values~~

~~13 33 board as provided in subsection 3. The department shall
13 34 provide the economic development marketing board with
13 35 assistance in implementing administrative functions of the
13 36 board and provide technical assistance to the board.~~

14 2 Sec. 36. EFFECTIVE DATE AND RETROACTIVE APPLICABILITY.

14 3 This division of this Act, being deemed of immediate
14 4 importance, takes effect upon enactment. The section of this

14 5 division of this Act reaffirming and reenacting Code section
14 6 15G.109 is retroactively applicable to July 1, 2003.

14 7 DIVISION IX

14 8 INCOME TAXATION

14 9 BONUS DEPRECIATION AND EXPENSING ALLOWANCE

14 10 Sec. 37. Section 422.3, subsection 5, Code Supplement
14 11 2003, is amended to read as follows:

14 12 5. "Internal Revenue Code" means the Internal Revenue Code
14 13 of 1954, prior to the date of its redesignation as the

14 14 Internal Revenue Code of 1986 by the Tax Reform Act of 1986,
14 15 or means the Internal Revenue Code of 1986 as amended to and
14 16 including January 1, 2003, and as amended by Pub. L. No. 108=
14 17 27, section 202, whichever is applicable.

SSB
3180

14 18 Sec. 38. Section 422.7, subsection 39, Code Supplement
 14 19 2003, is amended to read as follows:
 14 20 39. a. The additional first-year depreciation allowance
 14 21 authorized in section 168(k) of the Internal Revenue Code, as
 14 22 enacted by Pub. L. No. 107=147, section 101, does not apply in
 14 23 computing net income for state tax purposes. If the taxpayer
 14 24 has taken such deduction in computing federal adjusted gross
 14 25 income, the following adjustments shall be made:
 14 26 ~~a-~~ (1) Add the total amount of depreciation taken on all
 14 27 property for which the election under section 168(k) of the
 14 28 Internal Revenue Code was made for the tax year.
 14 29 ~~b-~~ (2) Subtract an amount equal to depreciation ~~taken~~
 14 30 allowed on such property for the tax year using the modified
 14 31 accelerated cost recovery system depreciation method
 14 32 applicable under section 168 of the Internal Revenue Code
 14 33 without regard to section 168(k).
 14 34 ~~c-~~ (3) Any other adjustments to gains or losses to
 14 35 reflect the adjustments made in ~~paragraphs "a" and "b"~~
 15 1 subparagraphs (1) and (2) pursuant to rules adopted by the
 15 2 director.
 15 3 b. The additional first-year depreciation allowance
 15 4 authorized in section 168(k)(4) of the Internal Revenue Code,
 15 5 as enacted by Pub. L. No. 108=27, shall apply in computing net
 15 6 income for state tax purposes, for qualified property acquired
 15 7 after May 5, 2003, and before January 1, 2005.

15 8 Sec. 39. Section 422.32, subsection 7, Code Supplement
 15 9 2003, is amended to read as follows:
 15 10 7. "Internal Revenue Code" means the Internal Revenue Code
 15 11 of 1954, prior to the date of its redesignation as the
 15 12 Internal Revenue Code of 1986 by the Tax Reform Act of 1986,
 15 13 or means the Internal Revenue Code of 1986 as amended to and
 15 14 including January 1, 2003, and as amended by Pub. L. No. 108=
 15 15 27, section 202, whichever is applicable.

15 16 Sec. 40. Section 422.35, subsection 19, Code Supplement
 15 17 2003, is amended to read as follows:
 15 18 19. a. The additional first-year depreciation allowance
 15 19 authorized in section 168(k) of the Internal Revenue Code, as
 15 20 enacted by Pub. L. No. 107=147, section 101, does not apply in
 15 21 computing net income for state tax purposes. If the taxpayer
 15 22 has taken such deduction in computing taxable income, the
 15 23 following adjustments shall be made:
 15 24 ~~a-~~ (1) Add the total amount of depreciation taken on all
 15 25 property for which the election under section 168(k) of the
 15 26 Internal Revenue Code was made for the tax year.
 15 27 ~~b-~~ (2) Subtract an amount equal to depreciation ~~taken~~
 15 28 allowed on such property for the tax year using the modified
 15 29 accelerated cost recovery system depreciation method
 15 30 applicable under section 168 of the Internal Revenue Code
 15 31 without regard to section 168(k).
 15 32 ~~c-~~ (3) Any other adjustments to gains or losses to
 15 33 reflect the adjustments made in ~~paragraphs "a" and "b"~~

SSB
3180

15 34 subparagraphs (1) and (2) pursuant to rules adopted by the
15 35 director.
16 1 b. The additional first-year depreciation allowance
16 2 authorized in section 168(k)(4) of the Internal Revenue Code,
16 3 as enacted by Pub. L. No. 108-27, shall apply in computing net

16 4 income for state tax purposes, for qualified property acquired
16 5 after May 5, 2003, and before January 1, 2005.

16 6 Sec. 41. RETROACTIVE APPLICABILITY.

16 7 1. The sections of this division of this Act amending
16 8 section 422.7, subsection 39, and section 422.35, subsection
16 9 19, apply retroactively to tax years ending after May 5, 2003.

16 10 2. The sections of this division of this Act amending
16 11 sections 422.3, subsection 5, and 422.32, subsection 7, apply

16 12 retroactively to January 1, 2003, for tax years beginning on
16 13 or after that date.

16 14 Sec. 42. EFFECTIVE DATE. This division of this Act, being
16 15 deemed of immediate importance, takes effect upon enactment.

16 16 DIVISION X

16 17 ADVISORY CAPACITY OF BOARDS

16 18 Sec. 43. ADVISORY CAPACITY OF BOARDS. For only the fiscal
16 19 year beginning July 1, 2004, and ending June 30, 2005, the
16 20 establishment and existence of the grow Iowa values board, the

16 21 economic development marketing board, and the loan and credit
16 22 guarantee advisory board, as provided for in 2003 Iowa Acts,
16 23 First Extraordinary Session, chapter 1 (House File 692), are
16 24 validated. However, the boards shall serve only in an
16 25 advisory capacity to the department of economic development.
16 26 The composition of the boards shall consist of the membership
16 27 in existence on June 15, 2004.

16 28 Sec. 44. EFFECTIVE DATE PROVISION. This division of this
16 29 Act, being deemed of immediate importance, takes effect upon

16 30 enactment.

16 31 EXPLANATION

16 32 Unless provided otherwise, provisions take effect upon
16 33 enactment and are retroactively applicable to July 1, 2003.
16 34 The bill is organized into divisions.

16 35 LEGISLATIVE FINDINGS. This division states legislative
17 1 findings regarding the invalidity of provisions originally
17 2 contained in 2003 Iowa Acts, House File 692, due to the Iowa
17 3 supreme court decision of Rants and Iverson v. Vilsack.

17 4 Legislative intent is stated to reaffirm and reenact certain
17 5 invalidated provisions. The provisions affected were
17 6 published in the 2003 Iowa Code Supplement or amended in the
17 7 2004 regular legislative session.

17 8 ENDOW IOWA GRANTS. This division reaffirms and reenacts
17 9 provisions relating to endow Iowa grants.

17 10 CIVIL ACTION APPEAL BONDS. This division reaffirms and
17 11 reenacts provisions pertaining to supersedeas bonds, including
17 12 provisions contained in 2004 Iowa Acts, Senate File 2306, that

17 13 were invalidated by the Iowa supreme court decision. Senate
17 14 File 2306 is repealed. The division provides that the
17 15 provision reenacting Senate File 2306 applies retroactively to
17 16 cases pending and filed on or after April 20, 2004, and
17 17 through June 15, 2004, and to cases pending or filed on or

SSB
3180

17 18 after June 16, 2004.

17 19 WORKERS' COMPENSATION. This division relates to certain
17 20 benefits and procedures related to workers' compensation and
17 21 contains an expression of legislative intent concerning the

17 22 changes made.

17 23 Code section 85.27, subsection 4, is amended to provide
17 24 that if an employer chooses medical care, the employer shall
17 25 hold the employee harmless for the cost of care until the
17 26 employer notifies the employee that the employer is no longer
17 27 authorizing all or part of the care and the reason for the
17 28 change in authorization. Also, an employer is not liable for
17 29 the cost of care that the employer arranges in response to a
17 30 sudden emergency if the employee's condition, for which care

17 31 was arranged, is not related to the employment.

17 32 Code section 85.34, subsection 2, paragraph "u", is amended
17 33 to provide that compensation for permanent partial disability
17 34 for nonscheduled injuries shall be paid for the number of
17 35 weeks in relation to 500 weeks as the reduction in the
18 1 employee's earning capacity caused by the disability bears in
18 2 relation to the earning capacity that the employee possessed
18 3 when the injury occurred.

18 4 Code section 85.34 is also amended by adding a new

18 5 subsection concerning compensation for successive
18 6 disabilities. The new subsection provides that an employer is
18 7 fully liable for compensating all of an employee's disability
18 8 that arises out of and in the course of the employee's
18 9 employment with the employer. The new subsection provides
18 10 that an employer is not liable for compensating an employee's
18 11 preexisting disability that arose out of and in the course of
18 12 employment with a different employer or from causes unrelated
18 13 to employment.

18 14 The amendment to Code section 85.34 also provides that if
18 15 an injured employee has a preexisting disability that was
18 16 caused by a prior injury arising out of and in the course of
18 17 employment with the same employer, and the preexisting
18 18 disability was compensable as a permanent partial disability
18 19 under the same paragraph of Code section 85.34, subsection 2,
18 20 as the employee's present injury, the employer is liable for
18 21 the combined disability that is caused by the injuries,
18 22 measured in relation to the employee's condition immediately

18 23 prior to the first injury. In this situation, the employer's
18 24 liability for the combined disability of the employee is
18 25 considered to be already partially satisfied to the extent of
18 26 the percentage of disability for which the employee was
18 27 previously paid by the employer.

18 28 The amendment to Code section 85.34 also provides that if
18 29 an employer is liable to an employee for a combined disability
18 30 that is payable under Code section 85.34, subsection 2,
18 31 paragraph "u", as a nonscheduled permanent partial disability,

18 32 and the employee has a preexisting disability that causes the
18 33 employee's earnings to be less at the time of the present
18 34 injury than if the prior injury had not occurred, the
18 35 employer's liability for the combined disability shall be
19 1 considered to be already partially satisfied to the extent of

SSB
3180

19 2 the percentage of disability for which the employee was
19 3 previously compensated by the employer minus the percentage
19 4 that the employee's earning capacity is less at the time of
19 5 the present injury than if the prior injury had not occurred.

19 6 The amendment to Code section 85.34 also provides that a
19 7 successor employer is considered to be the same employer for
19 8 the purposes of Code section 85.34 if the employee became part
19 9 of the successor employer's workforce through a merger,
19 10 purchase, or other transaction that assumes the employee into
19 11 the successor employer's workforce without substantially
19 12 changing the nature of the employee's employment.

19 13 Code section 85.36, subsection 9, paragraph "c", which
19 14 deals with apportionment of liability for successive

19 15 disabilities, is stricken.

19 16 Code section 85.70 is amended to provide that an injured
19 17 employee with a permanent disability who actively participates
19 18 in a vocational rehabilitation program shall be paid \$100
19 19 instead of \$20 each week by the employer during each week of
19 20 participation in addition to any other benefit payments.

19 21 Code section 86.12 is reaffirmed and reenacted, after being
19 22 held to be invalid by the Iowa supreme court. This provision
19 23 allows the workers' compensation commissioner to subject

19 24 employers to assessments for failure to report certain
19 25 information to the commissioner. The division makes this
19 26 provision effective upon enactment and retroactively
19 27 applicable to injuries occurring on or after July 1, 2003.

19 28 Code section 86.13A is reaffirmed and reenacted, after
19 29 being held to be invalid by the Iowa supreme court. This
19 30 provision requires the workers' compensation commissioner to
19 31 monitor the rate of compliance of employers and insurers in
19 32 timely commencing benefit payments to injured employees. In

19 33 this division, the provision is amended to provide that after
19 34 June 30, 2006, the commissioner may impose assessments against
19 35 employers and insurers for certain delays in commencing
20 1 benefit payments. The division makes this provision effective
20 2 upon enactment and retroactively applicable to injuries
20 3 occurring on or after July 1, 2003.

20 4 Code section 85.55, which allows an employee with a
20 5 physical defect that increases the risk of injury to waive
20 6 workers' compensation for injuries occurring directly or

20 7 indirectly because of such defect, is repealed.

20 8 With the exception of the provisions concerning Code
20 9 sections 86.12 and 86.13A, the bill takes effect upon
20 10 enactment and is applicable to injuries occurring on or after
20 11 that date. The provisions concerning Code sections 86.12 and
20 12 86.13A take effect upon enactment and are retroactively
20 13 applicable to injuries occurring on or after July 1, 2003.

20 14 FINANCIAL SERVICES. This division reaffirms and reenacts
20 15 requirements involving the delinquency charges collectible

20 16 relative to certain consumer credit transactions and authority
20 17 to contract for debt payment under credit transactions other
20 18 than consumer credit transactions.

20 19 LOAN AND CREDIT GUARANTEE PROGRAM. This division reaffirms
20 20 and reenacts provisions relating to the loan and credit

20 21 guarantee program directed to relatively small businesses and
20 22 industries targeted to particular areas of commerce. The
20 23 division does not reenact the loan and credit guarantee
20 24 advisory board and makes conforming amendments.

20 25 ADMINISTRATIVE CONTRIBUTION SURCHARGE. This division
20 26 acknowledges the Iowa Code editor's removal of references from
20 27 the Iowa Code to the administrative contribution surcharge and
20 28 fund due to their repeal effective July 1, 2003. This repeal
20 29 results from the Iowa supreme court decision making House File
20 30 692, dealing with the grow Iowa values fund, invalid, which
20 31 also made the extension of the surcharge and fund invalid.
20 32 The division takes effect upon enactment and applies
20 33 retroactively to July 1, 2003.

20 34 MARKETING. This division reaffirms and reenacts the
20 35 economic development marketing board and its approval process
21 1 for marketing strategies. However, the division amends the
21 2 reaffirmed and reenacted provisions by providing that the
21 3 department of economic development, rather than the marketing
21 4 board which is not reestablished, shall accept proposals for
21 5 marketing strategies for purposes of selecting a strategy for
21 6 the department to administer. The division provides that the
21 7 department shall select and approve a proposal that meets

21 8 certain criteria and that the department shall implement and
21 9 administer the approved marketing strategy. The provisions
21 10 amending the economic development marketing board do not apply
21 11 retroactively.

21 12 INCOME TAXATION BONUS DEPRECIATION AND EXPENSING ALLOWANCE.
21 13 This division includes in the references to the Internal
21 14 Revenue Code the federal income tax revisions enacted by
21 15 Congress in regard to expensing certain depreciable assets and
21 16 making these changes applicable for Iowa income tax purposes.

21 17 The division amends Code sections 422.7 and 422.35 to
21 18 couple with the changes to the bonus depreciation deduction
21 19 enacted in the federal Jobs and Growth Tax Relief
21 20 Reconciliation Act of 2003 (Pub. L. No. 108-27). The bonus
21 21 depreciation of 50 percent allowed in that law is allowed for
21 22 state income tax purposes for qualified property acquired
21 23 after May 5, 2003, and before January 1, 2005.

21 24 The provisions of the division coupling with federal
21 25 expensing changes are retroactively applicable to January 1,

21 26 2003, for tax years beginning on or after that date. The
21 27 provisions of the division coupling with the changes to the
21 28 federal bonus depreciation apply retroactively to tax years
21 29 ending after May 5, 2003.

21 30 The division takes effect upon enactment.

21 31 ADVISORY CAPACITY OF BOARDS. This division provides that,
21 32 for only the fiscal year beginning July 1, 2004, and ending
21 33 June 30, 2005, the grow Iowa values board, the establishment
21 34 and existence of the economic development marketing board, and

21 35 the loan and credit guarantee advisory board, as provided for
22 1 in 2003 Iowa Acts, First Extraordinary Session, chapter 1
22 2 (House File 692), are validated. However, the boards shall
22 3 serve only in an advisory capacity to the department of
22 4 economic development. The composition of the boards shall

22 5 consist of the membership in existence on June 15, 2004. This
22 6 division takes effect upon enactment.
22 7 LSB 7155XC 80
22 8 tm/sh/8