

4. LEGISLATION. If the delegates determine that this state should enter into an agreement with one or more other states, the delegates shall recommend the preparation of legislation to bring this state into substantial compliance with the agreement as a result of the multistate discussions required by this section.

5. DEFINITIONS. In this section, unless the context otherwise requires:

a. "Agreement" means an interstate agreement for simplification and uniformity of taxation among member states in order to reduce the burden of tax compliance for sellers and for all types of commerce.

b. "Seller" means a person that sells, leases, or rents tangible personal property or a service.

c. "State" means a state of the United States and the District of Columbia.

d. "Tax" or "taxes" means the state sales and use taxes imposed under chapter 422, division IV, and chapter 423, or a similar tax imposed by a political subdivision of this state.

6. REPEAL. This section is repealed March 1, 2005.

Sec. 5. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved May 10, 2002

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## CHAPTER 1162

### STATE AGENCY REGULATORY FUNCTIONS — MISCELLANEOUS REORGANIZATIONS, TRANSFERS, AND REVISIONS

S.F. 2325

**AN ACT** relating to certain state agency regulatory functions by reorganizing the duties of the department of inspections and appeals, transferring the court appointed special advocate program to the department of inspections and appeals, renaming and revising the duties of the state citizen foster care review board, reorganizing the administrative structure of the department of natural resources, providing for legislative review of state agencies, and revising requirements for licensed birth centers.

*Be It Enacted by the General Assembly of the State of Iowa:*

#### DIVISION I

#### DEPARTMENT OF INSPECTIONS AND APPEALS DUTIES

Section 1. Section 10A.101, subsection 1, Code 2001, is amended to read as follows:

1. "Administrator" means ~~the chief administrative law judge, chief inspector, chief investigator, chief auditor, or the~~ a person administering coordinating the administration of a division of the department.

Sec. 2. Section 10A.104, Code 2001, is amended by adding the following new subsection: NEW SUBSECTION. 11. Administer inspection and licensing of social and charitable gambling pursuant to chapter 99B.

Sec. 3. Section 10A.104, subsection 8, Code 2001, is amended to read as follows:

8. Establish by rule standards and procedures for certifying that targeted small businesses are eligible to participate in the procurement program established in sections 73.15 through

73.21. The procedure for determination of eligibility shall not include self-certification by a business. ~~Rules and guidelines adopted pursuant to this subsection are subject to review and approval by the director of the department of management.~~ The director shall maintain a current directory of targeted small businesses ~~which that have been certified pursuant to this subsection.~~

Sec. 4. Section 10A.106, subsection 2, Code 2001, is amended by striking the subsection.

Sec. 5. Section 10A.106, unnumbered paragraph 2, Code 2001, is amended to read as follows:

The allocation of departmental duties to the divisions of the department in sections ~~10A.302, 10A.402, 10A.502, 10A.702, and 10A.801~~ does not prohibit the director from reallocating departmental duties within the department. ~~The director shall not reallocate any of the duties of the division of administrative hearings, created by section 10A.801, to any other unit of the department.~~

Sec. 6. Section 10A.401, subsection 1, Code 2001, is amended to read as follows:

1. "Administrator" means the ~~chief investigator who shall coordinate~~ person coordinating the administration of this division.

Sec. 7. Section 10A.402, Code 2001, is amended to read as follows:

10A.402 RESPONSIBILITIES.

The administrator shall coordinate the division's conduct of various audits and investigations as ~~otherwise provided for~~ by law including but not limited to the following:

1. Investigations relative to the practice of regulated professions and occupations, except those within the jurisdiction of the board of medical examiners, the board of pharmacy examiners, the board of dental examiners, and the board of nursing.

2. ~~Investigations relative to proposed sales within the state of subdivided land situated outside of the state.~~ Audits relative to the administration of hospitals and health care facilities.

3. ~~Investigations relative to applications for beer and liquor licenses.~~ Audits relative to administration and disbursement of funding under the state supplementary assistance program and the medical assistance program.

4. Investigations and collections relative to the liquidation of overpayment debts owed to the department of human services. Collection methods include but are not limited to small claims filings, debt setoff, distress warrants, and repayment agreements, and are subject to approval by the department of human services.

5. Investigations relative to the operations of the department of elder affairs.

6. Investigations relative to the administration of the state ~~supplemental~~ supplementary assistance program, the state medical assistance program, the food stamp program, the family investment program, and any other state or federal benefit assistance program.

7. Investigations relative to the internal affairs and operations of agencies and departments within the executive branch of state government, except for institutions governed by the state board of regents.

Sec. 8. Section 10A.501, subsection 1, Code 2001, is amended to read as follows:

1. "Administrator" means the ~~chief inspector, who shall coordinate~~ person coordinating the administration of this division.

Sec. 9. Section 10A.502, Code 2001, is amended to read as follows:

10A.502 RESPONSIBILITIES.

The administrator shall coordinate the division's conduct of various inspections as ~~otherwise provided for~~ by law including but not limited to the following:

1. ~~Inspections and licensing procedures related to social and charitable gambling pursuant to chapter 99B of hotels, home food establishments, and egg handlers.~~

2. Inspections of food establishments, including restaurants, ~~hotels, food and beverage vending machines, state educational, charitable, correctional, and penal institutions, and sanitation inspections~~ food processing plants, grocery stores, convenience stores, temporary food establishments, and mobile food units.

3. Inspections for sanitation in any locality of the state upon the written petition of five or more residents of a particular the locality.

Sec. 10. Section 10A.701, subsection 1, Code 2001, is amended to read as follows:

1. "Administrator" means the ~~chief administrator who shall coordinate~~ person coordinating the administration of this division.

Sec. 11. Section 10A.801, subsection 1, paragraph a, Code 2001, is amended to read as follows:

a. "Administrator" means the ~~chief administrative law judge who shall coordinate~~ person coordinating the administration of the division.

Sec. 12. Section 10A.801, subsection 2, Code 2001, is amended to read as follows:

2. The administrator shall coordinate the division's conduct of appeals and administrative hearings as ~~otherwise~~ provided by law.

Sec. 13. Section 10A.801, subsection 7, paragraph c, Code 2001, is amended to read as follows:

c. To establish standards and procedures for the evaluation, training, promotion, and discipline for the administrative law judges employed by the division. ~~These~~ The procedures shall include provisions for each agency for whom a particular administrative law judge presides to submit to the division on a periodic basis the agency's views with respect to the performance of that administrative law judge or the need for specified additional training for that administrative law judge. However, the evaluation, training, promotion, and discipline of all administrative law judges employed by the division shall remain solely within the authority of the ~~division~~ department.

Sec. 14. Sections 10A.301 and 10A.302, Code 2001, are repealed.

#### DIVISION II CHILD ADVOCACY BOARD

Sec. 15. Section 10A.104, subsection 2, Code 2001, is amended to read as follows:

2. Appoint the administrators of the divisions within the department and all other personnel deemed necessary for the administration of this chapter, except the state public defender, assistant state public defenders, administrator of the racing and gaming commission, members of the employment appeal board, and administrator of the ~~state citizen foster care review~~ child advocacy board created in section 237.16. All persons appointed and employed in the department are covered by the provisions of chapter 19A, but persons not appointed by the director are exempt from the merit system provisions of chapter 19A.

Sec. 16. Section 232.2, subsection 9, Code Supplement 2001, is amended to read as follows:

9. "Court appointed special advocate" means a person duly certified by the ~~judicial branch~~ child advocacy board created in section 237.16 for participation in the court appointed special advocate program and appointed by the court to represent the interests of a child in any judicial proceeding to which the child is a party or is called as a witness or relating to any dispositional order involving the child resulting from such proceeding.

Sec. 17. Section 232.89, subsection 5, Code 2001, is amended to read as follows:

5. The court may appoint a court appointed special advocate, ~~as defined in section 232.2, subsection 9,~~ to act as guardian ad litem. The court appointed special advocate shall receive

notice of and may attend all depositions, hearings, and trial proceedings to support the child and advocate for the protection of the child. The court appointed special advocate shall not be allowed to separately introduce evidence or to directly examine or cross-examine witnesses. The court appointed special advocate shall submit a written report to the court and to each of the parties to the proceedings containing results of the court appointed special advocate's initial investigation of the child's case, including but not limited to recommendations regarding placement of the child and other recommendations based on the best interest of the child. The court appointed special advocate shall submit subsequent reports to the court and parties, as needed, detailing the continuing situation of the child's case as long as the child remains under the jurisdiction of the court. However In addition, the court appointed special advocate shall file other reports to the court as required by the court.

Sec. 18. Section 232.126, unnumbered paragraph 2, Code 2001, is amended to read as follows:

The court may appoint a court appointed special advocate, ~~as defined in section 232.2, subsection 9,~~ to act as guardian ad litem. The court appointed special advocate shall receive notice of and may attend all depositions, hearings, and trial proceedings to support the child and advocate for the protection of the child. The court appointed special advocate shall not be allowed to separately introduce evidence or to directly examine or cross-examine witnesses. The court appointed special advocate shall submit reports to the court and the parties to the proceedings containing the information required in reports submitted by a court appointed special advocate under section 232.89, subsection 5. However In addition, the court appointed special advocate shall file other reports to the court as required by the court.

Sec. 19. Section 235A.15, subsection 2, paragraph e, subparagraph (7), Code Supplement 2001, is amended to read as follows:

(7) To the state child advocacy and local citizen foster care review boards created pursuant to sections 237.16 and 237.19.

Sec. 20. Section 237.15, Code 2001, is amended by adding the following new subsection: NEW SUBSECTION. 2A. "Court appointed special advocate" means the same as defined in section 232.2.

Sec. 21. Section 237.15, subsection 6, Code 2001, is amended to read as follows:

6. "State board" means the ~~state citizen foster care review~~ child advocacy board created pursuant to section 237.16.

Sec. 22. Section 237.16, subsection 1, Code 2001, is amended to read as follows:

1. The ~~state citizen foster care review~~ child advocacy board is created within the department of inspections and appeals. The state board consists of ~~seven~~ nine members appointed by the governor, subject to confirmation by the senate and directly responsible to the governor. One member shall be an active court appointed special advocate volunteer and one member shall be a judicial branch employee or judicial officer appointed from nominees submitted by the judicial branch. The appointment is for a term of four years ~~which that~~ begins and ends as provided in section 69.19. Vacancies on the state board shall be filled in the same manner as original appointments are made.

Sec. 23. Section 237.18, subsection 2, Code 2001, is amended by adding the following new paragraph:

NEW PARAGRAPH. g. Establish procedures and protocols for administering the court appointed special advocate program in accordance with subsection 7.

Sec. 24. Section 237.18, Code 2001, is amended by adding the following new subsections: NEW SUBSECTION. 7. Administer the court appointed special advocate program, including but not limited to performance of all of the following:

a. Establish standards for the program, including but not limited to standards for selection and screening of volunteers, preservice training, ongoing education, and assignment and supervision of volunteers. Identifying information concerning a court appointed special advocate, other than the advocate's name, shall not be considered to be a public record under chapter 22.

b. Implement the court appointed special advocate program in additional areas of the state.

c. Promote adherence to the national guidelines for state and local court appointed special advocate programs.

d. Issue an annual report of the court appointed special advocate program for submission to the general assembly, the governor, and the supreme court.

e. Employ appropriate court appointed special advocate program staff in accordance with available funding. The state board shall coordinate with the department of inspections and appeals the performance of the administrative functions of the state board.

NEW SUBSECTION. 8. Receive gifts, grants, or donations made for any of the purposes of the state board's programs and disburse and administer the funds received in accordance with the terms of the donor and under the direction of program staff. The funds received shall be used according to any restrictions attached to the funds and any unrestricted funds shall be retained and applied to the applicable program budget for the next succeeding fiscal year.

Sec. 25. CHILD ADVOCACY BOARD. The child advocacy board shall work with the court appointed special advocate program to develop a plan for merging that program with the citizen foster care review process. In addition, the board shall also review other programs or processes in state government that are intended to address the best interests of a child who is the subject of an order for out-of-home placement or other juvenile court oversight. The board shall develop a report with findings and recommendations as to how the programs and processes may be consolidated with the efforts of the board. The plan and report shall be submitted to the general assembly, the governor, and the supreme court on or before December 16, 2002.

### DIVISION III DEPARTMENT OF NATURAL RESOURCES

Sec. 26. Section 15.221, subsection 2, paragraph c, Code 2001, is amended by striking the paragraph and inserting in lieu thereof the following:

c. The director of the department of natural resources or the director's designee.

Sec. 27. Section 15A.1, subsection 3, paragraph b, Code Supplement 2001, is amended to read as follows:

b. If the business generates solid or hazardous waste, that the business conducts in-house audits and management plans to reduce the amount of the waste and to safely dispose of the waste. For purposes of this paragraph, a business may, in lieu of conducting in-house audits, authorize the ~~land quality and waste management assistance division of the department of natural resources or the Iowa waste reduction center established under section 268.4~~ to provide the audits.

Sec. 28. Section 15E.111, subsection 1, paragraph b, unnumbered paragraph 2, Code 2001, is amended to read as follows:

Financial assistance awarded under this section may be in the form of a loan, loan guarantee, grant, production incentive payment, or a combination of financial assistance. The department shall not award more than twenty-five percent of the amount allocated to the value-added agricultural products and processes financial assistance fund during any fiscal year to support a single person. The department may finance any size of facility. However, the department shall reserve up to fifty percent of the total amount allocated to the fund, for purposes of assisting persons requiring one hundred thousand dollars or less in financial assis-

tance. The amount shall be reserved until the end of the third quarter of the fiscal year. The department shall not provide financial assistance to support a value-added production facility, if the facility or a person owning a controlling interest in the facility has demonstrated a continuous and flagrant disregard for the health and safety of its employees, or the quality of the environment. Evidence of such disregard shall include a history of serious or uncorrected violations of state or federal law protecting occupational health and safety or the environment, including but not limited to serious or uncorrected violations of occupational safety and health standards enforced by the division of labor services of the department of workforce development pursuant to chapter 84A, or rules enforced by the ~~environmental protection division of the department of natural resources~~ pursuant to chapter 455B.

Sec. 29. Section 15E.208, subsection 4, paragraph b, Code Supplement 2001, is amended to read as follows:

b. An agricultural products processor, if the processor or a person owning a controlling interest in the processor has demonstrated, within the most recent consecutive three-year period prior to the application for financing, a continuous and flagrant disregard for the health and safety of its employees or the quality of the environment. Violations of environmental protection statutes, rules, or regulations shall be reported for the most recent five-year period prior to application. Evidence of such disregard shall include a history of serious or uncorrected violations of state or federal law protecting occupational health and safety or the environment, including but not limited to serious or uncorrected violations of occupational safety and health standards enforced by the division of labor services of the department of workforce development pursuant to chapter 84A, or rules enforced by the ~~environmental protection division of the department of natural resources~~ pursuant to chapter 455B.

Sec. 30. Section 28D.3, subsection 4, Code 2001, is amended to read as follows:

4. Persons employed by the ~~energy and geological resources division of the department of natural resources~~ under this chapter are not subject to the twenty-four-month time limitation specified in subsection 2.

Sec. 31. Section 89B.17, unnumbered paragraph 1, Code 2001, is amended to read as follows:

The director of public health, the labor commissioner, and the ~~administrator of the environmental protection division~~ director of the department of natural resources or the director's designee under written signatures of all these parties may recommend any of the following actions:

Sec. 32. Section 97B.49G, subsection 6, paragraph c, Code 2001, is amended to read as follows:

c. There is appropriated from the state fish and game protection fund to the department of personnel an actuarially determined amount calculated by the Iowa public employees' retirement system sufficient to pay for the additional benefits to conservation peace officers provided by this subsection, as a percentage, in paragraph "a" and for the employer portion of the benefits provided in paragraph "b". The amount is in addition to the contribution paid by the employer under section 97B.11. The cost of the benefits relating to fish and wildlife conservation peace officers within the ~~fish and game division of the department of natural resources~~ shall be paid from the state fish and game protection fund and the cost of the benefits relating to the other conservation peace officers of the department shall be paid from the general fund.

Sec. 33. Section 103A.8, subsection 7, Code 2001, is amended to read as follows:

7. Limit the application of thermal efficiency standards for energy conservation to new construction which will incorporate a heating or cooling system. Air exchange fans designed to provide ventilation shall not be considered a cooling system. The commissioner shall exempt any new construction from thermal efficiency standards for energy conservation if the com-

missioner determines that the standards are unreasonable as they apply to a particular building or class of buildings including farm buildings for livestock use. Lighting efficiency standards shall recognize variations in lighting intensities required for the various tasks performed within the building. The commissioner shall consult with the ~~energy and geological resources division of the~~ department of natural resources regarding standards for energy conservation prior to the adoption of the standards. However, the standards shall be consistent with section 103A.8A.

Sec. 34. Section 103A.8A, Code 2001, is amended to read as follows:  
103A.8A MINIMUM ENERGY EFFICIENCY STANDARD.

The state building code commissioner shall adopt as a part of the state building code a requirement that new single-family or two-family residential construction shall meet an established minimum energy efficiency standard. The standard shall be stated in terms of the home heating index developed by the physics department at Iowa state university of science and technology. The minimum standard shall be the average energy consumption of new single-family or two-family residential construction as determined by a survey conducted by the ~~energy and geological resources division of the~~ department of natural resources of the average actual energy consumption, as expressed in terms of the home heating index. The minimum standard shall only apply to single-family or two-family residential construction commenced after the adoption of the standard.

Sec. 35. Section 161B.1, subsection 2, paragraphs a and b, Code 2001, are amended by striking the paragraphs and inserting in lieu thereof the following:

- a. An administrator assigned to energy and geological resource management designated by the director of the department of natural resources.
- b. An administrator assigned to environmental protection designated by the director of the department of natural resources.

Sec. 36. Section 173.16, unnumbered paragraph 2, Code Supplement 2001, is amended to read as follows:

In order to efficiently administer facilities and events on the state fairgrounds, and to promote Iowa's conservation ethic, the Iowa state fair board shall handle or dispose of waste generated on the state fairgrounds under supervision of the ~~land quality and waste management assistance division established under section 455B.483~~ department of natural resources.

Sec. 37. Section 206.25, Code 2001, is amended to read as follows:  
206.25 PESTICIDE CONTAINERS DISPOSAL.

The department of agriculture and land stewardship, in cooperation with the ~~environmental protection division of the~~ department of natural resources, shall develop a program for handling used pesticide containers which reflects the state solid waste management policy hierarchy, and shall present the program developed to the general assembly by February 1, 1988.

Sec. 38. Section 266.39C, subsection 2, paragraph f, Code 2001, is amended to read as follows:

- f. One representative of the ~~energy and geological resources division of the~~ department of natural resources, appointed by the director.

Sec. 39. Section 427.1, subsection 19, unnumbered paragraphs 5 and 6, Code Supplement 2001, are amended to read as follows:

The application for a specific pollution-control or recycling property shall be accompanied by a certificate of the ~~administrator of the environmental protection division of the~~ department of natural resources certifying that the primary use of the pollution-control property is to control or abate pollution of any air or water of this state or to enhance the quality of any air or water of this state or, if the property is recycling property, that the primary use of the property is for recycling.

A taxpayer may seek judicial review of a determination of the ~~administrator of the environmental protection division~~ department or, on appeal, of the environmental protection commission in accordance with the provisions of chapter 17A.

Sec. 40. Section 427.1, subsection 20, unnumbered paragraph 1, Code Supplement 2001, is amended to read as follows:

The impoundment structure and any land underlying an impoundment located outside an incorporated city, which are not developed or used directly or indirectly for nonagricultural income-producing purposes and which are maintained in a condition satisfactory to the soil and water conservation district commissioners of the county in which the impoundment structure and the impoundment are located. A person owning land which qualifies for a property tax exemption under this subsection shall apply to the county assessor each year not later than February 1 for the exemption. The application shall be made on forms prescribed by the department of revenue and finance. The first application shall be accompanied by a copy of the water storage permit approved by the ~~administrator of the environmental protection division~~ director of the department of natural resources or the director's designee, and a copy of the plan for the construction of the impoundment structure and the impoundment. The construction plan shall be used to determine the total acre-feet of the impoundment and the amount of land which is eligible for the property tax exemption. The county assessor shall annually review each application for the property tax exemption under this subsection and submit it, with the recommendation of the soil and water conservation district commissioners, to the board of supervisors for approval or denial. An applicant for a property tax exemption under this subsection may appeal the decision of the board of supervisors to the district court.

Sec. 41. Section 455A.6, subsection 6, paragraph d, Code 2001, is amended to read as follows:

d. Approve the budget request prepared by the director for the programs authorized by chapters 455B, 455C, 455E, and 455F, and 455H. The commission shall approve the budget request prepared by the director for programs ~~administered by the energy and geological resources division, the administrative services division, and the office of the director, as provided in section 455A.7 subject to the rulemaking authority of the commission~~. The commission may increase, decrease, or strike any item within the department budget request for the specified programs before granting approval.

Sec. 42. Section 455A.7, subsection 1, Code Supplement 2001, is amended by striking the subsection and inserting in lieu thereof the following:

1. The director may establish administrative divisions, bureaus, or other administrative entities within the department in order to most efficiently and effectively carry out the department's responsibilities. The creation or modification of departmental divisions, bureaus, or other administrative entities shall be implemented only after consultation with the natural resource commission or the environmental protection commission as applicable.

Sec. 43. Section 455A.8, subsection 1, Code 2001, is amended to read as follows:

1. The Brushy Creek recreation trails advisory board shall be organized ~~within the parks and preserves division~~ of the department and shall be composed of ten members including the following: the director of the department or the director's designee who shall serve as a non-voting ex officio member, the park ranger responsible for the Brushy Creek recreation area, a member of the state advisory board for preserves established under chapter 465C, a person appointed by the governor, and six persons appointed by the legislative council. Each person appointed by the governor or legislative council must actively participate in recreational trail activities such as hiking, an equestrian sport, or a winter sport at the Brushy Creek recreation area. The voting members shall elect a chairperson at the board's first meeting each year.

Sec. 44. Section 455A.10, Code 2001, is amended to read as follows:

455A.10 STATE FISH AND GAME PROTECTION FUND — CAPITAL PROJECTS AND CONTINGENCIES.

Funds remaining in the state fish and game protection fund during a fiscal year which are not specifically appropriated by the general assembly are appropriated and may be used for capital projects and contingencies under the jurisdiction of the department relating to fish and wildlife division arising during the fiscal year. A contingency shall not include any purpose or project which was presented to the general assembly by way of a bill or a proposed bill and which failed to be enacted into law. For the purpose of this section, a necessity of additional operating funds may be construed as a contingency. Before any of the funds authorized to be expended by this section are allocated for contingencies, it shall be determined by the executive council that a contingency exists and that the contingency was not existent while the general assembly was in session and that the proposed allocation shall be for the best interests of the state. If a contingency arises or could reasonably be foreseen during the time the general assembly is in session, expenditures for the contingency must be authorized by the general assembly.

Sec. 45. Section 455B.133, Code 2001, is amended by adding the following new subsection:

NEW SUBSECTION. 10. Adopt rules allowing a city to conduct a controlled burn of a demolished building subject to the same restrictions as are in effect for fire fighting training fires. The rules shall include a provision that a city may undertake no more than three controlled burns in every overlapping six-tenths-of-a-mile-radius circle every three years. The rules shall prohibit a controlled burn of a demolished building in Cedar Rapids, Marion, Hiawatha, Council Bluffs, Carter Lake, Des Moines, West Des Moines, Clive, Windsor Heights, Urbandale, Pleasant Hill, Buffalo, Davenport, Mason City or any other area where area-specific state implementation plans require the control of particulate.<sup>1</sup>

Sec. 46. Section 455B.480, Code Supplement 2001, is amended to read as follows:

455B.480 SHORT TITLE.

This part may be cited as the "~~Land Quality and Waste Management Assistance Division Act~~".

Sec. 47. Section 455B.481, subsection 2, Code Supplement 2001, is amended to read as follows:

2. It is also the intent of the general assembly that a comprehensive waste management plan be established by the ~~land quality and waste management assistance division~~ department which includes: the determination of need and adequate regulatory controls prior to the initiation of site selection; the process for selecting a superior site determined to be necessary; the establishment of a process for a site community to submit or present data, views, or arguments regarding the selection of the operator and the technology that best ensures proper facility operation; the prohibition of shallow land burial of hazardous and low-level radioactive wastes; the establishment of a regulatory framework for a facility; and the establishment of provisions for the safe and orderly development, operation, closure, postclosure, and long-term monitoring and maintenance of the facility.

Sec. 48. Section 455B.482, subsection 4, Code Supplement 2001, is amended by striking the subsection.

Sec. 49. Section 455B.483, Code Supplement 2001, is amended by striking the section and inserting in lieu thereof the following:

455B.483 WASTE MANAGEMENT ASSISTANCE.

The director of the department of natural resources shall provide for administration of the provisions of this part.

<sup>1</sup> See 2002 Iowa Acts, Second Extraordinary Session, chapter 1003, §241, 262 herein

Sec. 50. Section 455B.484, unnumbered paragraph 1, Code Supplement 2001, is amended to read as follows:

The ~~division~~ department shall:

Sec. 51. Section 455B.484, subsections 2 and 9, Code Supplement 2001, are amended to read as follows:

2. Seek, receive, and accept funds in the form of appropriations, grants, awards, wills, bequests, endowments, and gifts for deposit into the ~~land quality and waste management assistance division~~ trust fund to be used for programs relating to the duties of the ~~division~~ department under this part.

9. Include in the annual report to the governor and the general assembly required by section 455A.4, subsection 1, paragraph "d", information outlining the activities of the ~~division~~ department in carrying out programs and responsibilities under this part, and identifying trends and developments in the management of waste. The report shall also include specific recommendations for attaining the goals for waste minimization and capacity assurance requirements.

Sec. 52. Section 455B.484, subsection 13, paragraph c, Code Supplement 2001, is amended to read as follows:

c. In solicitation of proposals for the implementation of the comprehensive plan, the ~~land quality and waste management assistance division~~ department shall give preference to cooperative proposals which incorporate and utilize the participation of the universities under the control of the state board of regents.

Sec. 53. Section 455B.485, subsections 3, 4, and 5, Code Supplement 2001, are amended to read as follows:

3. Approve the budget request for the ~~land quality and waste management assistance division for administration of this part~~ prior to submission to the department of management. The commission may increase, decrease, or strike any proposed expenditure within the ~~land quality and waste management assistance division~~ budget request before granting approval.

4. Recommend legislative action which may be required for the safe and proper management of waste, for the acquisition or operation of a facility, for the funding of a facility, to enter into interstate agreements for the management of a facility, and to improve the operation of the ~~land quality and~~ department relating to waste management assistance ~~division~~.

5. Approve all contracts and agreements, in excess of twenty-five thousand dollars, under this part between the ~~land quality and waste management assistance division~~ department and other public or private persons or agencies.

Sec. 54. Section 455B.486, Code 2001, is amended to read as follows:  
455B.486 FACILITY SITING.

1. The ~~division~~ department shall identify and recommend to the commission suitable sites for locating facilities for the treatment, storage, or disposal of hazardous waste within this state. The ~~division~~ department shall use site selection criteria adopted by the environmental protection commission pursuant to section 455B.487 in identifying these sites. The commission shall accept or reject the recommendation of the ~~division~~ department. If the commission rejects the recommendation of the ~~division~~ department, the commission shall state its reasons for rejecting the recommendation.

2. The commission shall adopt rules establishing criteria for the identification of sites which are suitable for the operation of low-level radioactive waste disposal facilities. The ~~division~~ department shall apply these criteria, once adopted, to identify and recommend to the commission sites suitable for locating facilities for the disposal of low-level radioactive waste. The commission shall accept or reject the recommendation of the ~~division~~ department. If the commission rejects the recommendation of the ~~division~~ department, the commission shall state its reasons for rejecting the recommendation.

Sec. 55. Section 455B.516, subsection 3, Code Supplement 2001, is amended by striking the subsection.

Sec. 56. Section 455B.517, unnumbered paragraph 1, Code Supplement 2001, is amended to read as follows:

The ~~land quality and waste management assistance division~~ department shall do all of the following:

Sec. 57. Section 455B.517, subsection 4, Code Supplement 2001, is amended to read as follows:

4. Seek, receive, and accept funds in the form of appropriations, grants, awards, wills, bequests, endowments, and gifts for the uses designated pursuant to section 455B.133B. The ~~division~~ department shall also coordinate existing resources and oversee the disbursement of federal grant moneys to provide consistency in achieving the toxics pollution prevention goal of the state.

Sec. 58. Section 455B.518, subsection 2, unnumbered paragraph 1, Code 2001, is amended to read as follows:

The ~~division~~ department shall adopt criteria for the information required in a multimedia toxics pollution prevention plan. To the extent possible, the plans shall coordinate reporting requirements in order to minimize unnecessary duplication. The plans shall include, but are not limited to, all of the following:

Sec. 59. Section 455D.6, Code 2001, is amended by adding the following new subsection:  
NEW SUBSECTION. 6A. Develop a strategy and recommend to the commission the adoption of rules necessary to implement by January 1, 2004, a strategy for the recycling of electronic goods and the disassembling and removing of toxic parts from electronic goods.

Sec. 60. Section 455E.11, subsection 2, paragraph a, subparagraph (1), subparagraph subdivision (b), Code Supplement 2001, is amended to read as follows:

(b) One hundred sixty-five thousand dollars to the ~~land quality and waste management assistance division of the department~~ to be used for the by-products and waste search service at the university of northern Iowa.

Sec. 61. Section 455E.11, subsection 2, paragraph a, subparagraph (2), subparagraph subdivision (a), subparagraph subdivision part (iv), Code Supplement 2001, is amended to read as follows:

(iv) The ~~land quality and waste management assistance division~~ program of the department.

Sec. 62. Section 455E.11, subsection 2, paragraph b, subparagraph (3), subparagraph subdivision (b), unnumbered paragraph 1, Code Supplement 2001, is amended to read as follows:

Two percent is appropriated annually to the department and, except for administrative expenses, is transferred to the Iowa department of public health for the purpose of administering grants to counties and conducting oversight of county-based programs for the testing of private rural water supply wells, private rural water supply well sealing, and the proper closure of private rural abandoned wells and cisterns. Not more than thirty-five percent of the moneys is appropriated annually for grants to counties for the purpose of conducting programs of private rural water supply testing, private rural water supply well sealing, the proper closure of private rural abandoned wells and cisterns, or any combination thereof. An amount agreed to by the department of natural resources and the Iowa department of public health shall be retained by the department of natural resources for administrative expenses.

Sec. 63. Section 456A.16, unnumbered paragraph 5, Code 2001, is amended to read as follows:

The general assembly shall appropriate annually from the state fish and game protection

fund the amount credited to the fund from the checkoff to the ~~fish and wildlife division~~ of the department for the purposes specified in this section.

Sec. 64. Section 456A.17, unnumbered paragraph 2, Code 2001, is amended to read as follows:

The state fish and game protection fund, except as otherwise provided, consists of all moneys accruing from license fees and all other sources of revenue arising under the fish and wildlife ~~division programs~~. Notwithstanding section 12C.7, subsection 2, interest or earnings on investments or time deposits of the moneys in the state fish and game protection fund shall be credited to that fund.

Sec. 65. Section 456A.19, unnumbered paragraphs 1 and 2, Code 2001, are amended to read as follows:

All funds accruing to the fish and game protection fund, except an equitable portion of the administration fund, shall be expended solely in carrying on the ~~fish and wildlife~~ activities embraced in the ~~fish and wildlife division~~. Expenditures incurred by the ~~division department~~ in carrying on the activities shall be only on authorization by the general assembly.

The department shall by October 1 of each year submit to the department of management for transmission to the general assembly a detailed estimate of the amount required by the department during the succeeding year for carrying on the ~~fish and wildlife~~ activities embraced in the ~~fish and wildlife division~~. The estimate shall be in the same general form and detail as required by law in estimates submitted by other state departments.

Sec. 66. Section 456A.21, subsection 1, Code 2001, is amended to read as follows:

1. A forestry management and enhancement fund is created in the state treasury under the ~~control of the department's forests and prairies division created in section 455A.7 control~~. The fund is composed of moneys deposited into the fund pursuant to section 456A.20, moneys appropriated by the general assembly, and moneys available to and obtained or accepted by the division or the department from the United States or private sources for placement in the fund.

Sec. 67. Section 473.11, subsection 3, unnumbered paragraph 1, Code 2001, is amended to read as follows:

An energy fund disbursement council is established. The council shall be composed of the governor or the governor's designee, the director of the department of management, who shall serve as the council's chairperson, the administrator of the division of community action agencies of the department of human rights, ~~the administrator of the energy and geological resources division~~ a ~~designee of the director~~ of the department of natural resources who is knowledgeable in the field of energy conservation, and a designee of the director of transportation, who is knowledgeable in the field of energy conservation. The council shall include as nonvoting members two members of the senate appointed by the president of the senate, after consultation with the majority leader and the minority leader of the senate, and two members of the house of representatives appointed by the speaker of the house, after consultation with the majority leader and the minority leader of the house. The legislative members shall be appointed upon the convening and for the period of each general assembly. Not more than one member from each house shall be of the same political party. The council shall be staffed by ~~the energy and geological resources division of the department of natural resources~~. The attorney general shall provide legal assistance to the council.

Sec. 68. Section 473.11, subsection 3, paragraphs c and f, Code 2001, are amended to read as follows:

c. Work with the ~~energy and geological resources division~~ department of natural resources in adopting administrative rules necessary to administer expenditures from the trust, encourage applications for grants and loans, review and select proposals for the funding of competitive grants and loans from the energy conservation trust, and evaluate their comparative effectiveness.

f. Prepare, in conjunction with the ~~energy and geological resources division~~ department of natural resources, an annual report to the governor and the general assembly regarding earnings of and expenditures from the energy conservation trust.

Sec. 69. Section 473.11, subsection 4, Code 2001, is amended to read as follows:

4. The ~~administrator of the energy and geological resources division~~ director of the department of natural resources ~~or the director's designee~~ shall be the administrator of the energy conservation trust. The administrator shall disburse moneys appropriated by the general assembly from the funds in the trust in accordance with the federal court orders, law and regulation, or settlement conditions applying to the moneys in that fund, and subject to the approval of the energy fund disbursement council if such approval is required. The council, after consultation with the attorney general, shall immediately approve the disbursement of moneys from the funds in the trust for projects which meet the federal court orders, law and regulations, or settlement conditions which apply to that fund.

Sec. 70. Section 476.6, subsection 19, paragraph b, Code Supplement 2001, is amended to read as follows:

b. A gas and electric utility required to be rate-regulated under this chapter shall assess potential energy and capacity savings available from actual and projected customer usage by applying commercially available technology and improved operating practices to energy-using equipment and buildings. The utility shall submit the assessment to the board. Upon receipt of the assessment, the board shall consult with the ~~energy bureau of the division of energy and geological resources of the department of natural resources~~ to develop specific capacity and energy savings performance standards for each utility. The utility shall submit an energy efficiency plan which shall include economically achievable programs designed to attain these energy and capacity performance standards.

Sec. 71. Section 476.6, subsection 25, paragraph a, subparagraphs (2) and (3), Code Supplement 2001, are amended to read as follows:

(2) Copies of the initial plan and budget, as well as any subsequent updates, shall be served on the ~~environmental protection division of the department of natural resources~~.

(3) The initial multiyear plan and budget and any subsequent updates shall be considered in a contested case proceeding pursuant to chapter 17A. The ~~environmental protection division of the department of natural resources~~ and the consumer advocate shall participate as parties to the proceeding.

Sec. 72. Section 481C.1, Code 2001, is amended to read as follows:

481C.1 WILD ANIMAL DEPREDATION UNIT.

A wild animal depredation unit is established within the ~~fish and wildlife division of the department of natural resources~~. The unit shall be comprised of two wild animal depredation biologists. ~~The biologists shall serve under the director of the department of natural resources.~~

Sec. 73. DEMOLITION SITE WASTE MATERIAL TASK FORCE.

1. The department of natural resources, in cooperation with the department of economic development, shall establish a task force to study issues related to the proper disposal of waste material from buildings demolished in cities and counties. The task force shall study issues including, but not limited to, all of the following:

a. The proper removal and disposal of waste material containing lead-based paints and asbestos.

b. The proper removal and disposal of any other hazardous waste material or waste material commonly found in old buildings that may be considered a health hazard if removed improperly.

c. Any alternatives to the disposal of waste material from demolition sites such as salvage operations.

- d. The training of fire department personnel in relation to the disposal of waste material from demolition sites.
  - e. Asbestos inspection training for volunteers at the local level.
  - f. An appropriate local limit for the controlled burning of demolished buildings from which hazardous materials have been removed prior to burning.
  - g. The proper method for encouraging cooperation between cities and counties on issues related to the disposal of demolition site waste material.
2. The task force membership shall include, but not be limited to, all of the following:
    - a. Representatives from the department of natural resources knowledgeable in air toxics and toxic materials.
    - b. Representatives from the department of economic development knowledgeable in community development.
    - c. A representative of the Iowa league of cities.
    - d. A representative of the Iowa society of solid waste operators.
    - e. Four members of the general assembly with not more than one member from each chamber being from the same political party. The two senators shall be designated by the president of the senate after consultation with the majority and minority leaders of the senate. The two representatives shall be designated by the speaker of the house of representatives after consultation with the majority and minority leaders of the house of representatives.
  3. By January 1, 2003, the task force shall submit a report to the general assembly, including recommendations, regarding issues relating to the disposal of debris from demolition sites in Iowa.

DIVISION IV  
OVERSIGHT COMMITTEE

Sec. 74. Section 2.45, Code 2001, is amended by adding the following new subsection:

NEW SUBSECTION. 5. a. The legislative oversight committee composed of members designated by the legislative council. In addition to the duties assigned by the legislative council, the committee shall systematically review the programs, agencies, and functions of the executive and judicial branches of government to ensure that public resources are used in the most efficient manner to benefit the people of Iowa.

b. The committee shall implement a systematic process of assessing the programs, agencies, and functions. Annually, by October 1, the committee shall identify the programs, agencies, and functions that will be subject to review and evaluation in the succeeding calendar year. An agency of state government selected by the committee for review and evaluation shall provide information as required by the committee, which may include but is not limited to the following:

(1) Identifying the activities, services, products, and functions of the agency, including identifying those that are required and the source of the requirement. At minimum, the sources identified shall include state law, state administrative rule, federal law, and federal regulation.

(2) Specifying for all activities, services, products, and functions, the users or clientele, and the current level of need for and the level of satisfaction with the activity, service, product, or function.

(3) Listing each discretionary activity, service, product, or function of the agency that is not required by state law, state administrative rule, federal law, or federal regulation.

(4) Identifying the degree of alignment between the agency strategic plan adopted pursuant to section 8E.206 and the requirements of the agency in state law and administrative rule.

(5) Identifying alternative methods of providing the agency's existing activities, services, products, and functions, and quantifying the impact to Iowans if such activities, services, products, or functions are no longer provided by the agency.

DIVISION V  
DEPARTMENT OF INSPECTIONS AND APPEALS  
BIRTH CENTERS

Sec. 75. Section 10A.104, subsection 9, Code 2001, is amended to read as follows:

9. Administer and enforce this chapter, and chapters 99B, 135B, 135C, ~~135G~~, 135H, 135J, 137C, 137D, and 137F.

Sec. 76. Section 10A.702, subsections 1 and 2, Code 2001, are amended to read as follows:

1. Investigations relative to the standards and practices of hospitals, hospices, ~~birth centers~~, and health care facilities.

2. Inspections and other licensing procedures relative to the hospice program, hospitals, ~~birth centers~~, and health care facilities. The division is designated as the sole licensing authority for these programs and facilities.

Sec. 77. Section 135.61, subsection 2, Code 2001, is amended by striking the subsection and inserting in lieu thereof the following:

2. "Birth center" means a facility or institution, which is not an ambulatory surgical center or a hospital or in a hospital, in which births are planned to occur following a normal, uncomplicated, low-risk pregnancy.

Sec. 78. Section 252A.2, Code 2001, is amended to read as follows:

252A.2 DEFINITIONS.

As used in this chapter, unless the context shall require otherwise, the following terms shall have the meanings ascribed to them by this section:

~~1. "Birth center" means birth center as defined in section 135G.2.~~

2. 1. "Birthing hospital" means a private or public hospital licensed pursuant to chapter 135B that has a licensed obstetric unit or is licensed to provide obstetric services, or a licensed birthing center associated with a hospital.

~~3.~~ 2. "Child" includes but shall not be limited to a stepchild, foster child or legally adopted child and means a child actually or apparently under eighteen years of age, and a dependent person eighteen years of age or over who is unable to maintain the person's self and is likely to become a public charge.

4. 3. "Court" shall mean and include any court upon which jurisdiction has been conferred to determine the liability of persons for the support of dependents.

5. 4. "Dependent" shall mean and include a spouse, child, mother, father, grandparent or grandchild who is in need of and entitled to support from a person who is declared to be legally liable for such support.

6. 5. "Institution" means a birthing hospital ~~or birth center~~.

~~7. "Petitioner" includes each dependent person for whom support is sought in a proceeding instituted pursuant to this chapter or a mother or putative father of a dependent. However, in an action brought by the child support recovery unit, the state is the petitioner.~~

8. 6. "Party" means a petitioner, a respondent, or a person who intervenes in a proceeding instituted under this chapter.

7. "Petitioner" includes each dependent person for whom support is sought in a proceeding instituted pursuant to this chapter or a mother or putative father of a dependent. However, in an action brought by the child support recovery unit, the state is the petitioner.

9. 8. "Petitioner's representative" includes counsel of a dependent person for whom support is sought and counsel for a mother or putative father of a dependent. In an action brought by the child support recovery unit, "petitioner's representative" includes a county attorney, state's attorney and any other public officer, by whatever title the officer's public office may be known, charged by law with the duty of instituting, maintaining, or prosecuting a proceeding under this chapter or under the laws of the state.

10. 9. "Putative father" means a man who is alleged to be or who claims to be the biological

father of a child born to a woman to whom the man is not married at the time of the birth of the child.

~~11.~~ 10. "Register" means to file a foreign support order in the registry of foreign support orders maintained as a filing in equity by the clerk of court.

~~12.~~ 11. "Respondent" includes each person against whom a proceeding is instituted pursuant to this chapter. "Respondent" may include the mother or the putative father of a dependent.

~~13.~~ 12. "State registrar" means state registrar as defined in section 144.1.

Sec. 79. Chapter 135G, Code 2001, is repealed.

Approved May 10, 2002

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## CHAPTER 1163

### TOBACCO SETTLEMENT AGREEMENT — MISCELLANEOUS PROVISIONS — LITIGATION COSTS

S.F. 2317

**AN ACT** relating to the tobacco master settlement agreement, including tobacco product manufacturer compliance, making an appropriation, and providing penalties.

*Be It Enacted by the General Assembly of the State of Iowa:*

*\*Section 1. Section 453A.22, subsection 1, Code 2001, is amended to read as follows:*

*1. If a person holding a permit issued by the department under this division, including a retailer permit for railway car, has willfully violated section 453A.2 or 453A.58, the department shall revoke the permit upon notice and hearing. If the person violates any other provision of this division, or a rule adopted under this division, or is substantially delinquent in the payment of a tax administered by the department or the interest or penalty on the tax, or if the person is a corporation and if any officer having a substantial legal or equitable interest in the ownership of the corporation owes any delinquent tax of the permit-holding corporation, or interest or penalty on the tax, administered by the department, the department may revoke the permit issued to the person, after giving the permit holder an opportunity to be heard upon ten days' written notice stating the reason for the contemplated revocation and the time and place at which the person may appear and be heard. The hearing before the department may be held at a site in the state as the department may direct. The notice shall be given by mailing a copy to the permit holder's place of business as it appears on the application for a permit. If, upon hearing, the department finds that the violation has occurred, the department may revoke the permit.\**

*\*Sec. 2. Section 453A.44, subsection 10, Code 2001, is amended to read as follows:*

*10. The director may revoke, cancel, or suspend the license or licenses of any distributor or subjobber for violation of any of the provisions of this division, for violation of section 453A.58, or for violation of any other act applicable to the sale of tobacco products, or any rule or regulations promulgated by the director in furtherance of this division. No license shall be revoked,*

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\* Item veto; see message at end of the Act