

CHAPTER 178STATE AND LOCAL GOVERNMENT FINANCIAL
AND REGULATORY MATTERS — MISCELLANEOUS PROVISIONS

S.F. 453

AN ACT relating to state and local government financial and regulatory matters, making and reducing appropriations, providing a fee, increasing civil penalties, and providing applicability and effective dates.

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

DIVISION I
PROPERTY TAX REPLACEMENT

Section 1. Section 24.14, Code 2003, is amended to read as follows:
24.14 TAX LIMITED.

A greater tax than that so entered upon the record shall not be levied or collected for the municipality proposing the tax for the purposes indicated and a greater expenditure of public money shall not be made for any specific purpose than the amount estimated and appropriated for that purpose, except as provided in sections 24.6 and 24.15. All budgets set up in accordance with the statutes shall take such funds, and allocations made by sections 123.53, and 452A.79 and chapter 405A, into account, and all such funds, regardless of their source, shall be considered in preparing the budget.

Sec. 2. Section 331.403, subsection 3, Code 2003, is amended to read as follows:

3. A county that fails to meet the filing deadline imposed by this section shall have withheld from payments to be made to the county and allocated to the county pursuant to ~~chapter 405A section 425.1~~ an amount equal to five cents per capita until the financial report is filed.

Sec. 3. Section 331.427, subsection 1, unnumbered paragraph 1, Code 2003, is amended to read as follows:

Except as otherwise provided by state law, county revenues from taxes and other sources for general county services shall be credited to the general fund of the county, including revenues received under sections 9I.11, 101A.3, 101A.7, 123.36, 123.143, 142B.6, 176A.8, 321.105, 321.152, 321G.7, section 331.554, subsection 6, sections 341A.20, 364.3, 368.21, 422A.2, 428A.8, 430A.3, 433.15, 434.19, 445.57, 453A.35, 458A.21, 483A.12, 533.24, 556B.1, 583.6, 602.8108, 904.908, and 906.17, ~~and chapter 405A~~, and the following:

Sec. 4. Section 384.22, unnumbered paragraph 2, Code 2003, is amended to read as follows:

A city that fails to meet the filing deadline imposed by this section shall have withheld from payments to be made to the county which are allocated to the city pursuant to ~~chapter 405A section 425.1~~ an amount equal to five cents per capita until the annual report is filed with the auditor of state.

Sec. 5. Section 427B.19, subsection 3, unnumbered paragraph 1, Code 2003, is amended to read as follows:

On or before September 1 of each fiscal year through June 30, ~~2006~~ 2004, the county auditor shall prepare a statement, based upon the report received pursuant to subsections 1 and 2, listing for each taxing district in the county:

Sec. 6. Section 427B.19, subsection 3, paragraph c, Code 2003, is amended to read as follows:

c. The industrial machinery, equipment and computers tax replacement claim for each

taxing district. For fiscal years beginning July 1, 1996, and ending June 30, 2001, the replacement claim is equal to the amount determined pursuant to paragraph "a", multiplied by the tax rate specified in paragraph "b". For fiscal years beginning July 1, 2001, and ending June 30, 2006 ~~2004~~, the replacement claim is equal to the product of the amount determined pursuant to paragraph "a", less any increase in valuations determined in paragraph "d", and the tax rate specified in paragraph "b". If the amount subtracted under paragraph "d" is more than the amount determined in paragraph "a", there is no tax replacement for the fiscal year.

Sec. 7. Section 427B.19A, subsection 1, Code 2003, is amended to read as follows:

1. The industrial machinery, equipment and computers property tax replacement fund is created. For the fiscal year beginning July 1, 1996, through the fiscal year ending June 30, 2006 ~~2004~~, there is appropriated annually from the general fund of the state to the department of revenue and finance to be credited to the industrial machinery, equipment and computers property tax replacement fund, an amount sufficient to implement this division. However, for the fiscal year beginning July 1, 2003, the amount appropriated to the department of revenue and finance to be credited to the industrial machinery, equipment and computers tax replacement fund is ten million eighty-one thousand six hundred eighty-five dollars.¹

Sec. 8. Section 427B.19C, Code 2003, is amended to read as follows:

427B.19C ADJUSTMENT OF CERTAIN ASSESSMENTS REQUIRED.

In the assessment year beginning January 1, 2005 ~~2003~~, the amount of assessed value of property defined in section 403.19, subsection 1, for an urban renewal taxing district which received replacement moneys under section 427B.19A, subsection 4, shall be reduced by an amount equal to that portion of the amount of assessed value of such property which was assessed pursuant to section 427B.17, subsection 3.

Sec. 9. Section 441.73, subsection 4, Code 2003, is amended to read as follows:

4. The executive council shall transfer for the fiscal year beginning July 1, 1992, and each fiscal year thereafter, from funds established in sections 405A.8, 425.1, and 426.1, an amount necessary to pay litigation expenses. The amount of the fund for each fiscal year shall not exceed seven hundred thousand dollars. The executive council shall determine annually the proportionate amounts to be transferred from the ~~three~~ two separate funds. At any time when no litigation is pending or in progress the balance in the litigation expense fund shall not exceed one hundred thousand dollars. Any excess moneys shall be transferred in a proportionate amount back to the funds from which they were originally transferred.

Sec. 10. GUARANTEE OF REPLACEMENT FUNDS. The revaluation of all industrial machinery, equipment, and computers authorized in section 427B.19B, Code 2003, as a result of the insufficient funding of the industrial machinery, equipment and computers property tax replacement fund for the fiscal year beginning July 1, 2002, is void and taxes payable in the fiscal year beginning July 1, 2003, shall not be levied on the amount of such revaluation.

Sec. 11. Sections 403.23,² 405A.1, 405A.2, 405A.3, 405A.4, 405A.5, 405A.6, 405A.7, 405A.8, 405A.9, 405A.10, 422.65, 427A.12, and 427B.19B, Code 2003, are repealed.

Sec. 12. UNIFORM REDUCTIONS. The general assembly finds that the provisions of this division of this Act will result in reductions in appropriations that would otherwise be made from the general fund of the state for the fiscal year beginning July 1, 2003, that total \$70,000,000. If the governor vetoes a portion of this division of this Act, the governor shall order uniform reductions in appropriations allotments as provided in section 8.31, in an amount equal to the appropriations that are made as a result of the veto.

Sec. 13. EFFECTIVE DATE. The section of this division of this Act that voids the revaluation of machinery, equipment, and computers, being deemed of immediate importance, takes effect upon enactment.

¹ See chapter 179, §37 herein

² See 2003 Iowa Acts, First Extraordinary Session, chapter 2, §42 herein

DIVISION II
PARKING TICKETS

Sec. 14. Section 321.236, subsection 1, paragraph a, Code 2003, is amended to read as follows:

a. May be charged and collected upon a simple notice of a fine payable to the city clerk or clerk of the district court, if authorized by ordinance. ~~The fine shall not exceed five dollars except for snow route parking violations in which case the fine shall not exceed twenty five dollars for each violation charged under a simple notice of a fine shall be established by ordinance.~~ The fine may be increased up to ten by five dollars if the parking violation is not paid within thirty days of the date upon which the violation occurred, if authorized by ordinance. Violations of section 321L.4, subsection 2, may be charged and collected upon a simple notice of a one hundred dollar fine payable to the city clerk or clerk of the district court, if authorized by ordinance. No costs or other charges shall be assessed. All fines collected by a city pursuant to this paragraph shall be retained by the city and all fines collected by a county pursuant to this paragraph shall be retained by the county.

Sec. 15. Section 805.8A, subsection 1, paragraph a, Code 2003, is amended to read as follows:

a. For parking violations under sections 321.236, 321.239, 321.358, 321.360, and 321.361, the scheduled fine is five dollars, ~~except if the local authority has established the fine by ordinance pursuant to section 321.236, subsection 1.~~ The scheduled fine for a parking violation ~~of pursuant to section 321.236 increases in an amount up to ten by five dollars, as authorized by ordinance pursuant to section 321.236, subsection 1, paragraph "a", if the parking violation is not paid within thirty days of the date upon which the violation occurred. For purposes of calculating the unsecured appearance bond required under section 805.6, the scheduled fine shall be five dollars, or if the amount of the fine is greater than five dollars, the unsecured appearance bond shall be the amount of the fine established by the local authority pursuant to section 321.236, subsection 1.~~ However, violations charged by a city or county upon simple notice of a fine instead of a uniform citation and complaint as permitted by section 321.236, subsection 1, paragraph "a", are not scheduled violations, and this section shall not apply to any offense charged in that manner. For a parking violation under section 321.362 or 461A.38, the scheduled fine is ten dollars.

DIVISION III
LAW ENFORCEMENT ACADEMY

Sec. 16. NEW SECTION. 80B.11E ACADEMY TRAINING — APPLICATION BY INDIVIDUAL — INDIVIDUAL EXPENSE.

1. Notwithstanding any other provision of law to the contrary, an individual who is not a certified law enforcement officer may apply for attendance at the law enforcement academy at their own expense if such individual is sponsored by a law enforcement agency that either intends to hire or has hired the individual as a law enforcement officer on the condition that the individual meets the minimum eligibility standards described in subsection 2.

2. An individual who submits an application pursuant to subsection 1 shall, at a minimum, meet all minimum hiring standards as established by academy rules, including the successful completion of certain psychological and physical testing examinations. In addition, such individual shall be of good moral character as determined by a thorough background investigation by the academy for a fee. For such purposes, the academy shall have the authority to conduct a background investigation of the individual, including a fingerprint search of local, state, and national fingerprint files.

3. An individual shall not be granted permission to attend an academy training program if such acceptance would result in the nonacceptance of another qualifying applicant who is a law enforcement officer.

4. An individual who has not been hired by a law enforcement agency must be hired by a law enforcement agency within eighteen months of completing the appropriate coursework at the law enforcement academy in order to obtain certification pursuant to this section.

DIVISION IV
BUDGET

Sec. 17. Section 331.436, Code 2003, is amended to read as follows:
331.436 PROTEST.

Protests to the adopted budget must be made in accordance with sections 24.27 through 24.32 as if the county were the municipality under those sections except that the number of people necessary to file a protest under this section shall not be less than one hundred.

DIVISION V
INDEBTEDNESS REPORTING — COLLECTION OF TAXES

Sec. 18. Section 403.23, subsection 1, Code 2003, is amended by striking the subsection and inserting in lieu thereof the following:

1. On or before December 1 of each odd-numbered year, each municipality that has established an urban renewal area shall report to the department of management and to the appropriate county auditor the total amount of loans, advances, indebtedness, or bonds outstanding at the close of the most recently ended fiscal year, which qualify for payment from the special fund created in section 403.19, including interest negotiated on such loans, advances, indebtedness, or bonds. For purposes of this subsection, "indebtedness" includes written agreements whereby the municipality agrees to suspend, abate, exempt, rebate, refund, or reimburse property taxes, or provide a grant for property taxes paid, with moneys in the special fund. The amount of loans, advances, indebtedness, or bonds shall be listed in the aggregate for each municipality reporting.

Sec. 19. Section 403.23, subsections 2 and 3, Code 2003, are amended to read as follows:

2. At the request of the legislative fiscal bureau, the department of management shall provide the reports and additional information to the legislative fiscal bureau. The department of management, in consultation with the legislative fiscal bureau, shall determine reporting criteria and shall prepare a form for reports filed with the department pursuant to this section. The department shall make the form available by electronic means.

3. If a municipality does not file the ~~annual~~ report with the department of management and the county auditor by December 1 of ~~each odd-numbered year~~, the county treasurer shall withhold disbursement of incremental taxes to the municipality until the ~~annual~~ report is filed beginning immediately with the next following disbursement of taxes. The county auditor shall notify the county treasurer if taxes are to be withheld.

Sec. 20. Section 631.1, Code 2003, is amended by adding the following new subsection:
NEW SUBSECTION. 7. The district court sitting in small claims has concurrent jurisdiction of an action for the collection of taxes brought by a county treasurer pursuant to sections 445.3 and 445.4 where the amount in controversy is five thousand dollars or less for actions commenced on or after July 1, 2003, exclusive of interest and costs.

DIVISION VI
MUNICIPAL AND COUNTY INFRACTIONS

Sec. 21. Section 331.302, subsection 15, Code 2003, is amended to read as follows:

15. A county shall not provide a civil penalty in excess of ~~five~~ seven hundred ~~fifty~~ dollars for the violation of an ordinance which is classified as a county infraction or if the infraction is a repeat offense, a civil penalty not to exceed ~~seven hundred fifty one thousand~~ dollars for each repeat offense. A county infraction is not punishable by imprisonment.

Sec. 22. Section 331.307, subsection 1, Code 2003, is amended to read as follows:

1. A county infraction is a civil offense punishable by a civil penalty of not more than ~~five seven hundred fifty~~ fifty dollars for each violation or if the infraction is a repeat offense a civil penalty not to exceed ~~seven hundred fifty one thousand~~ one thousand dollars for each repeat offense.

Sec. 23. Section 364.3, subsection 6, Code 2003, is amended to read as follows:

6. A city shall not provide a civil penalty in excess of ~~five seven hundred fifty~~ fifty dollars for the violation of an ordinance which is classified as a municipal infraction or if the infraction is a repeat offense, a civil penalty not to exceed ~~seven hundred fifty one thousand~~ one thousand dollars for each repeat offense. A municipal infraction is not punishable by imprisonment.

Sec. 24. Section 364.22, subsection 1, unnumbered paragraph 1, Code 2003, is amended to read as follows:

A municipal infraction is a civil offense punishable by a civil penalty of not more than ~~five seven hundred fifty~~ fifty dollars for each violation or if the infraction is a repeat offense, a civil penalty not to exceed ~~seven hundred fifty one thousand~~ one thousand dollars for each repeat offense. However, notwithstanding section 364.3, a municipal infraction arising from noncompliance with a pre-treatment standard or requirement, referred to in 40 C.F.R. § 403.8, by an industrial user may be punishable by a civil penalty of not more than one thousand dollars for each day a violation exists or continues.

DIVISION VII TRANSACTION FEE

Sec. 25. NEW SECTION. 331.605C ELECTRONIC TRANSACTION FEE — AUDIT.

1. For the fiscal year beginning July 1, 2003, and ending June 30, 2004, the recorder shall collect a fee of five dollars for each recorded transaction for which a fee is paid pursuant to section 331.604 to be used for the purposes of planning and implementing electronic recording and electronic transactions in each county and developing county and statewide internet websites to provide electronic access to records and information.

2. Beginning July 1, 2004, the recorder shall collect a fee of one dollar for each recorded transaction for which a fee is paid pursuant to section 331.604 to be used for the purpose of paying the county's ongoing costs of maintaining the systems developed and implemented under subsection 1.³

3. The county treasurer, on behalf of the recorder, shall establish and maintain an interest-bearing account into which all moneys collected pursuant to subsections 1 and 2 shall be deposited.

4. The state government electronic transaction fund is established in the office of the treasurer of state under the control of the treasurer of state. Moneys deposited into the fund are not subject to section 8.33. Notwithstanding section 12C.7, interest or earnings on moneys in the state government electronic transaction fund shall be credited to the fund. Moneys in the state government electronic transaction fund are not subject to transfer, appropriation, or reversion to any other fund, or any other use except as provided in this subsection. The treasurer of state shall enter into a contract with the Iowa state association of counties affiliate representing county recorders to develop, implement, and maintain a statewide internet website for purposes of providing electronic access to records and information recorded or filed by county recorders. On a monthly basis, the county treasurer shall pay one dollar of each fee collected pursuant to subsection 1 to the treasurer of state for deposit into the state government electronic transaction fund. Moneys credited to the state government electronic transaction fund are appropriated to the treasurer of state to be used for contract costs. This subsection is repealed June 30, 2004.⁴

5. The pooled local government electronic transaction fund is established in the office of the treasurer of state under control of the treasurer of state. Moneys deposited into the fund are not subject to section 8.33. Notwithstanding section 12C.7, interest or earnings on moneys in

³ See chapter 179, §124 herein

⁴ See chapter 179, §125 herein

the pooled local government electronic transaction fund shall be credited to the fund. Moneys in the fund are not subject to transfer, appropriation, or reversion to any other fund, or any other use except as provided in this subsection. On a quarterly basis, the county treasurer shall pay four dollars of each fee collected pursuant to subsection 1 and all fees collected pursuant to subsection 2, to the treasurer of state for deposit into the pooled local government electronic transaction fund. Moneys credited to the pooled local government electronic transaction fund are appropriated to the treasurer of state to be distributed equally to all counties and paid to the county treasurers of each county within thirty days after the moneys are received by the treasurer of state. Moneys received by a county treasurer pursuant to this subsection shall be deposited into the account established and maintained by the county treasurer on behalf of the county recorder under subsection 3, and shall be used by the county recorder for the purposes set forth in subsections 1 and 2.

6. The recorder shall make available any information required by the county auditor or auditor of state concerning the fees collected under this section for the purposes of determining the amount of fees collected and the uses for which such fees are expended.

DIVISION VIII LOCAL GOVERNMENT LEASES

Sec. 26. Section 346.27, Code 2003, is amended by adding the following new subsection: NEW SUBSECTION. 26. Any incorporating unit may enter into a lease with an authority that the authority and the incorporating unit determine is necessary and convenient to effectuate their purposes and the purposes of this section. The power to enter into leases under this section is in addition to other powers granted to cities and counties to enter into leases and the provisions of chapter 75, section 364.4, subsection 4, and section 331.301, subsection 10, are not applicable to leases entered into under this section.

DIVISION IX LOCAL GOVERNMENT INNOVATION FUND

Sec. 27. NEW SECTION. 8.64 LOCAL GOVERNMENT INNOVATION FUND — COMMITTEE — LOANS.

1. The local government innovation fund is created in the state treasury under the control of the department of management for the purpose of stimulating and encouraging innovation in local government by the awarding of loans to cities and counties.

2. The director of the department of management shall establish a seven-member committee to be called the local government innovation fund committee. Committee members shall have expertise in local government. The committee shall review all requests for funds and approve loans of funds if the committee determines that a city or county project that is the subject of a request would result in cost savings, innovative approaches to service delivery, or added revenue to the city, county, or state. Eligible projects are projects which cannot be funded from a city's or county's operating budget without adversely affecting the city's or county's normal service levels. Preference shall be given to requests involving the sharing of services between two or more local governments. Projects may include, but are not limited to, purchase of advanced technology, contracting for expert services, and acquisition of equipment or supplies.

3. A city or county seeking a loan from the local government innovation fund shall complete an application form designed by the local government innovation fund committee which employs a return on investment concept and demonstrates how the project funded by the loan will result in reduced city, county, or state general fund expenditures or how city or county fund revenues will increase without an increase in state costs. Minimum loan requirements for city or county requests shall be determined by the committee.

4. a. In order for the local government innovation fund to be self-supporting, the local government innovation fund committee shall establish repayment schedules for each loan awarded. The loan requirements shall be outlined in a chapter 28E agreement executed

between the state and the city or county receiving the loan. A city or county shall repay the loan over a period not to exceed five years, with interest, at a rate to be determined by the local government innovation fund committee.

b. The local government innovation fund committee shall utilize the department of management, the department of revenue and finance, or other source of technical expertise designated by the committee to certify savings projected for a local government innovation fund project.

5. Notwithstanding section 12C.7, subsection 2, interest or earnings on moneys deposited in the local government innovation fund shall be credited to the local government innovation fund. Notwithstanding section 8.33, moneys appropriated to and moneys remaining in the local government innovation fund at the end of a fiscal year shall not revert to the general fund of the state.

Sec. 28. LOCAL GOVERNMENT INNOVATION FUND APPROPRIATION. There is appropriated from the general fund of the state to the department of management for the fiscal year beginning July 1, 2003, and ending June 30, 2004, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For deposit in the local government innovation fund created in section 8.64:
..... \$ 10,000,000

Notwithstanding section 8.64, subsection 4, as enacted by this division of this Act, the local government innovation fund committee may provide up to 20 percent of the amount appropriated in this section in the form of forgivable loans or as grants for those projects that propose a new and innovative sharing initiative that would serve as an important model for cities and counties.⁵

DIVISION X
STUDY OF CITY AND COUNTY REGULATION BY THE
DEPARTMENT OF NATURAL RESOURCES

Sec. 29. STUDY. The legislative council shall establish a study committee for the 2003 interim to review the department of natural resources' enforcement and penalty policies relating to regulation of cities and counties. The study committee shall review options for changing the department's approach to enforcement from reliance on punitive measures to a collaborative approach. In addition, the amounts of fines shall be reviewed along with the possibility of designating a portion of a fine to be applied against the costs of compliance with the departmental regulation.

DIVISION XI
CHARGE FOR CAPITAL ASSETS

Sec. 30. CHARGE FOR CAPITAL ASSETS. For the fiscal year beginning July 1, 2003, and ending June 30, 2004, the department of management shall levy a charge against departments and establishments, as defined in section 8.2, for indirect costs associated with state ownership of land, buildings, equipment, or other capital assets controlled by a department or establishment. The charges shall not be levied against capital assets that are subject to charges levied by the department of administrative services, if the department is established by law, or against capital assets controlled by the state board of regents. Moneys received as a result of charges made under this section shall be transferred to the fund from which the moneys were originally appropriated. The total amount of charges levied under this section that are associated with appropriations made from the general fund of the state for the fiscal year shall not exceed \$1,720,000.⁶

Sec. 31. CHARGE FOR CAPITAL — APPROPRIATIONS REDUCTION — STATE BOARD OF REGENTS — STUDY.

1. In lieu of applying a charge for capital assets to the institutions under the control of the

⁵ See chapter 179, §42 herein

⁶ See chapter 179, §138 herein

state board of regents as otherwise provided in this division for executive branch agencies, the appropriations made from the general fund of the state to the state board of regents **for the general university** operating budgets at the state university of Iowa, Iowa state university of science and technology, and university of northern Iowa, in 2003 Iowa Acts, House File 662,⁷ section 9, subsections 2, 3, and 4, are reduced by \$17,880,000. **The state board of regents shall apply the reduction as follows: state university of Iowa, 46.7 percent, Iowa state university of science and technology, 36.8 percent, and university of northern Iowa, 16.5 percent.**

2. The legislative council shall authorize a study for the 2003 legislative interim on the policy option of levying charges for capital assets against all state agencies, including the state board of regents. The study recommendations and findings shall include but are not limited to identification of the capital assets that should be subject to charges and how capital assets funded by sources other than state funding should be charged. The study report, including findings and recommendations, shall be submitted to the general assembly for consideration during the 2004 legislative session. The study shall be conducted by a study committee consisting of the following: one member designated by the state board of regents, one member representing the department of management designated by the department's director, one member representing the state department of transportation appointed by the department's director, one member representing the judicial branch appointed by the chief justice of the supreme court, one member who is a member of the general assembly jointly appointed by the majority leader of the senate and the speaker of the house of representatives, and one member who is a member of the general assembly jointly appointed by the minority leader of the senate and the minority leader of the house of representatives. A chairperson or cochairpersons shall be designated by the legislative council.

DIVISION XII CHARTER AGENCIES

Sec. 32. NEW SECTION. 7J.1 CHARTER AGENCIES.

1. DESIGNATION OF CHARTER AGENCIES — PURPOSE. The governor may, by executive order, designate up to five state departments or agencies, as described in section 7E.5, other than the department of administrative services, if the department is established in law, or the department of management, as a charter agency by July 1, 2003. The designation of a charter agency shall be for a period of five years which shall terminate as of June 30, 2008. The purpose of designating a charter agency is to grant the agency additional authority as provided by this chapter while reducing the total appropriations to the agency.⁸

2. CHARTER AGENCY DIRECTORS.

a. Prior to each fiscal year, or as soon thereafter as possible, the governor and each director of a designated charter agency shall enter into an annual performance agreement which shall set forth measurable organization and individual goals for the director in key operational areas of the director's agency. The annual performance agreement shall be made public and a copy of the agreement shall be submitted to the general assembly.

b. In addition to the authority granted the governor as to the appointment and removal of a director of an agency that is a charter agency, the governor may remove a director of a charter agency for misconduct or for failure to achieve the performance goals set forth in the annual performance agreement.

c. Notwithstanding any provision of law to the contrary, the governor may set the salary of a director of a charter agency under the pay plan for exempt positions in the executive branch of government. In addition, the governor may authorize the payment of a bonus to a director of a charter agency in an amount not in excess of fifty percent of the director's annual rate of pay, based upon the governor's evaluation of the director's performance in relation to the goals set forth in the annual performance agreement.

d. A director of a charter agency may authorize the payment of bonuses to employees of the charter agency in a total amount not in excess of fifty percent of the director's annual rate of pay, based upon the director's evaluation of the employees' performance.

* Item veto; see message at end of the Act

⁷ Chapter 182 herein

⁸ See chapter 179, §85; 2003 Iowa Acts, First Extraordinary Session, chapter 2, §14 herein

3. APPROPRIATIONS AND ASSET MANAGEMENT.

a. It is the intent of the general assembly that appropriations to a charter agency for any fiscal year shall be reduced, with a target reduction of ten percent for each charter agency, from the appropriation that would otherwise have been enacted for that charter agency.⁹

b. Notwithstanding any provision of law to the contrary, proceeds from the sale or lease of capital assets that are under the control of a charter agency shall be retained by the charter agency and used for such purposes within the scope of the responsibilities of the charter agency.

c. Notwithstanding section 8.33, one-half of all unencumbered or unobligated balances of appropriations made for each fiscal year of that fiscal period to the charter agency shall not revert to the state treasury or to the credit of the funds from which the appropriations were made.

d. For the fiscal period beginning July 1, 2003, and ending June 30, 2005, a charter agency is not subject to a uniform reduction ordered by the governor in accordance with section 8.31.

4. PERSONNEL MANAGEMENT.

a. Notwithstanding any provision of law to the contrary, a charter agency shall not be subject to any limitation relating to the number of or pay grade assigned to its employees, including any limitation on the number of full-time equivalent positions as defined by section 8.36A.

b. A charter agency may waive any personnel rule and may exercise the authority granted to the department of personnel, or its successor, relating to personnel management concerning employees of the charter agency, subject to any restrictions on such authority as to employees of the charter agency covered by a collective bargaining agreement. The exclusive representative of employees of a charter agency may enter into agreements with the charter agency to grant the charter agency the authority described in this paragraph. A waiver of a rule pursuant to this subsection shall be indexed, filed, and made available for public inspection in the same manner as provided in section 17A.9A, subsection 4.

5. PROCUREMENT AND GENERAL SERVICES. A charter agency may waive any administrative rule regarding procurement, fleet management, printing and copying, or maintenance of buildings and grounds, and may exercise the authority of the department of general services, or its successor, as it relates to the physical resources of the state. A waiver of a rule pursuant to this subsection shall be indexed, filed, and made available for public inspection in the same manner as provided in section 17A.9A, subsection 4.

6. INFORMATION TECHNOLOGY. A charter agency may waive any administrative rule regarding the acquisition and use of information technology and may exercise the powers of the information technology department, or its successor, as it relates to information technology. A waiver of a rule pursuant to this subsection shall be indexed, filed, and made available for public inspection in the same manner as provided in section 17A.9A, subsection 4.

7. RULE FLEXIBILITY.

a. A charter agency may temporarily waive or suspend the provisions of any administrative rule if strict compliance with the rule impacts the ability of the charter agency requesting the waiver or suspension to perform its duties in a more cost-efficient manner and the requirements of this subsection are met.

b. The procedure for granting a temporary waiver or suspension of any administrative rule shall be as follows:

(1) The charter agency may waive or suspend a rule if the agency finds, based on clear and convincing evidence, all of the following:

(a) The application of the rule poses an undue financial hardship on the applicable charter agency.

(b) The waiver or suspension from the requirements of a rule in the specific case would not prejudice the substantial legal rights of any person.

(c) Substantially equal protection of public health, safety, and welfare will be afforded by a means other than that prescribed in the particular rule for which the waiver or suspension is requested.

⁹ See chapter 179, §86 herein

(d) The waiver or suspension would not result in a violation of due process, a violation of state or federal law, or a violation of the state or federal constitution.

(2) If a charter agency proposes to grant a waiver or suspension, the charter agency shall draft the waiver or suspension so as to provide the narrowest exception possible to the provisions of the rule and may place any condition on the waiver or suspension that the charter agency finds desirable to protect the public health, safety, and welfare. The charter agency shall then submit the waiver or suspension to the administrative rules review committee for consideration at the committee's next scheduled meeting.

(3) The administrative rules review committee shall review the proposed waiver or suspension at the committee's next scheduled meeting following submission of the proposal and may either take no action or affirmatively approve the waiver or suspension, or delay the effective date of the waiver or suspension in the same manner as for rules as provided in section 17A.4, subsection 5, and section 17A.8, subsection 9. If the administrative rules review committee either approves or takes no action concerning the proposed waiver or suspension, the waiver or suspension may become effective no earlier than the day following the meeting. If the administrative rules review committee delays the effective date of the waiver or suspension but no further action is taken to rescind the waiver or suspension, the proposed waiver or suspension may become effective no earlier than upon the conclusion of the delay. The administrative rules review committee shall notify the applicable charter agency of its action concerning the proposed waiver or suspension.

(4) Copies of the grant or denial of a waiver or suspension under this subsection shall be filed and made available to the public by the applicable charter agency.

c. A waiver or suspension granted pursuant to this subsection shall be for a period of time not to exceed twelve months or until June 30, 2008, whichever first occurs, and as determined by the applicable charter agency. A renewal of a temporary waiver or suspension granted pursuant to this section shall be granted or denied in the same manner as the initial waiver or suspension.

8. REPORTING REQUIREMENTS.

a. Each charter agency shall submit a written report to the general assembly by December 31 of each year summarizing the activities of the charter agency for the preceding fiscal year. The report shall include information concerning the expenditures of the agency and the number of filled full-time equivalent positions during the preceding fiscal year. The report shall include information relating to the actions taken by the agency pursuant to the authority granted by this section.

b. By January 15, 2008, the governor shall submit a written report to the general assembly on the operation and effectiveness of this chapter and the costs and savings associated with the implementation of this chapter. The report shall include any recommendations about extending the chapter's effectiveness beyond June 30, 2008.

9. DEPARTMENT OF MANAGEMENT REVIEW. Each proposed waiver or suspension of an administrative rule as authorized by this section shall be submitted to the department of management for review prior to the waiver or suspension becoming effective. The director of the department of management may disapprove the waiver or suspension if, based on clear and convincing evidence, the director determines that the suspension or waiver would result in an adverse financial impact on the state.

Sec. 33. NEW SECTION. 7J.2 CHARTER AGENCY LOAN FUND.

1. A charter agency loan fund is created in the state treasury under the control of the department of management for the purpose of providing funding to support innovation by those state agencies designated as charter agencies in accordance with section 7J.1. Innovation purposes shall include but are not limited to training, development of outcome measurement systems, management system modifications, and other modifications associated with transition of operations to charter agency status. Moneys in the fund are appropriated to the department of management for the purposes described in this subsection.

2. A charter agency requesting a loan from the fund shall complete an application process designated by the director of the department of management. Minimum loan requirements for charter agency requests shall be determined by the director.

3. In order for the fund to be self-supporting, the director of the department of management shall establish repayment schedules for each loan awarded. An agency shall repay the loan over a period not to exceed five years with interest, at a rate to be determined by the director.

4. Notwithstanding section 12C.7, subsection 2, interest or earnings on moneys deposited in the charter agency loan fund shall be credited to the charter agency loan fund. Notwithstanding section 8.33, moneys credited to the charter agency loan fund shall not revert to the fund from which appropriated at the close of a fiscal year.¹⁰

Sec. 34. NEW SECTION. 7J.3 REPEAL.

This chapter is repealed June 30, 2008.

Sec. 35. CHARTER AGENCY APPROPRIATIONS.

1. Notwithstanding any provision of law to the contrary, the total appropriations from the general fund of the state to those departments and agencies designated as charter agencies for the fiscal year beginning July 1, 2003, and ending June 30, 2004, as provided by the appropriation to those agencies as enacted by the Eightieth General Assembly, 2003 Regular Session, shall be reduced by \$15,000,000. The department of management shall apply the appropriation reductions, with a target of a 10 percent reduction for each charter agency, as necessary to achieve the overall reduction amount and shall make this information available to the legislative fiscal committee and the legislative fiscal bureau. It is the intent of the general assembly that appropriations to a charter agency in subsequent fiscal years shall be similarly adjusted from the appropriation that would otherwise have been enacted.

2. There is appropriated from the general fund of the state to the department of management for the fiscal year beginning July 1, 2003, and ending June 30, 2004, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For deposit in the charter agency loan fund created in section 7J.2:

..... \$ 3,000,000

3. For the fiscal year beginning July 1, 2003, and ending June 30, 2004, if the actual amount of revenue received by a charter agency exceeds the revenue amount budgeted for that charter agency by the governor and the general assembly, the charter agency may consider the excess amount to be repayment receipts as defined in section 8.2.¹¹

Sec. 36. EFFECTIVE DATE. This division of this Act, being deemed of immediate importance, takes effect upon enactment.

DIVISION XIII
HEALTH INSURANCE INCENTIVE

Sec. 37. STATE EMPLOYEE HEALTH INSURANCE COSTS — INCENTIVE PROGRAM.

The department of personnel, or its successor, may establish, with the approval of the executive council, an incentive program for state employees to encourage the reduction of health insurance costs for the fiscal year beginning July 1, 2003. If established, the incentive program shall provide that an amount equal to one-half of any savings realized through implementation of the program shall be distributed to applicable insured state employees in a manner established by the incentive program. The department shall provide the legislative government oversight committee with a copy of the proposed incentive program submitted to the executive council for approval. The department shall also submit a written update to the legislative government oversight committee by December 31, 2003, concerning its progress in implementing an incentive program.

¹⁰ See chapter 179, §87 herein

¹¹ See chapter 179, §139 herein

DIVISION XIV
AREA EDUCATION AGENCIES

**Sec. 38. AREA EDUCATION AGENCY SERVICE DELIVERY TASK FORCE.*

1. *The department of education shall establish a task force to study the delivery of media services, educational services, and special education support services by the area education agencies. The task force shall study issues including, but not limited to, all of the following:*

- a. *The potentiality of a fee for services, such as cooperative purchasing.*
- b. *The potential effects of allowing school districts to petition to join a noncontiguous area education agency.*
- c. *Opportunities for area education agencies to collaborate with community colleges and other higher education institutions, local libraries, and other community providers.*
- d. *Special education delivery by area education agencies and school districts, including the state's success in serving students identified as level I. This portion of the study shall also include a review of identification of students as level I; remediation, the success of preventative programs, including but not limited to, the early intervention block grant program; intensive instruction and tutoring; and appropriate reading instruction methodologies.*
- e. *Reduction of special education funding deficits, including a review of the use of state and federal funds for special education and related preventative programs.*

2. *The task force membership shall include all of the following:*

- a. *The director of the department of education or the director's designee.*
- b. *An area education agency administrator.*
- c. *A person representing the interests of special education students.*
- d. *A superintendent of a district with an enrollment of more than six hundred students.*
- e. *A superintendent of a district with an enrollment of six hundred or fewer students.*
- f. *A person from the private sector with experience in developing plans for cost savings.*
- g. *A person who is a private provider of special education services.*
- h. *An administrator of an accredited nonpublic school.*
- i. *Ten members of the general assembly, including five senators appointed by the president of the senate after consultation with the majority and minority leaders of the senate, and five representatives appointed by the speaker of the house of representatives after consultation with the majority and minority leaders of the house of representatives.*

3. *The department shall submit its findings and recommendations in a report to the chairpersons and ranking members of the senate and house standing committees on education and the joint appropriations subcommittee on education by December 15, 2003.**

Sec. 39. SPECIAL EDUCATION SUPPORT SERVICES BALANCE REDUCTION.

1. For the fiscal year beginning July 1, 2003, and ending June 30, 2004, area education agency special education support services fund balances shall be reduced, with each area education agency remitting to the state the following designated amount:

a. Area Education Agency 1	\$	517,120
b. Area Education Agency 4	\$	221,604
c. Area Education Agencies 3 and 5, and their successor area education agency	\$	995,807
d. Area Education Agencies 2, 6, 7, and their successor area education agency	\$	913,710
e. Area Education Agency 9	\$	468,138
f. Area Education Agency 10	\$	964,357
g. Area Education Agency 11	\$	3,620,018
h. Area Education Agency 12	\$	512,949
i. Area Education Agency 13	\$	666,285
j. Area Education Agency 14	\$	405,065
k. Area Education Agency 15	\$	413,282
l. Area Education Agency 16	\$	301,664

* Item veto; see message at end of the Act

2. Notwithstanding the provisions of section 257.37, an area education agency may use the funds determined to be available under section 257.35 in a manner which it believes is appropriate to best maintain the level of required area education agency special education services. An area education agency may also use unreserved fund balances for media services or education services in a manner which it believes is appropriate to best maintain the level of required area education agency special education services.

Sec. 40. Section 257.35, subsection 2, Code 2003, is amended to read as follows:

2. Notwithstanding subsection 1, the state aid for area education agencies and the portion of the combined district cost calculated for these agencies for ~~each the fiscal year of the fiscal period beginning July 1, 2002, and ending June 30, 2004~~ beginning July 1, 2002, and each succeeding fiscal year, shall be reduced by the department of management by seven million five hundred thousand dollars. The reduction for each area education agency shall be equal to the reduction that the agency received in the fiscal year beginning July 1, 2001.

Sec. 41. Section 257.35, Code 2003, is amended by adding the following new subsection:

NEW SUBSECTION. 3. Notwithstanding subsection 1, and in addition to the reduction applicable pursuant to subsection 2, the state aid for area education agencies and the portion of the combined district cost calculated for these agencies for the fiscal year beginning July 1, 2003, and ending June 30, 2004, shall be reduced by the department of management by ten million dollars. The department shall calculate a reduction such that each area education agency shall receive a reduction proportionate to the amount that it would otherwise have received under this section if the reduction imposed pursuant to this subsection did not apply.

Sec. 42. Section 257.37, subsection 6, Code 2003, is amended to read as follows:

6. For the budget ~~years year~~ beginning July 1, 2002, and July 1, 2003 each succeeding budget year, notwithstanding the requirements of this section for determining the budgets and funding of media services and education services, an area education agency may, within the limits of the total of the funds provided for the budget years pursuant to section 257.35, expend for special education support services an amount that exceeds the payment for special education support services pursuant to section 257.35 in order to maintain the level of required special education support services in the area education agency.

Sec. 43. EFFECTIVE DATE. This division of this Act, being deemed of immediate importance, takes effect upon enactment.

DIVISION XV CHILD WELFARE SERVICES

Sec. 44. CHILD WELFARE SERVICES SYSTEM REDESIGN.

1. PURPOSE. The department of human services shall initiate a process for improving the outcomes for families in this state who become involved with the state system for child welfare and juvenile justice by implementing a system redesign to transition to an outcomes-based system for children identified in this section. The outcomes-based system shall be organized based upon the federal and state child welfare outcomes and expectations and shall address the following purposes for the children and families involved with the state system:

a. Safety.

(1) Children are, first and foremost, protected from abuse and neglect.

(2) Children are safely maintained in the children's homes with family, whenever possible.

b. Permanency.

(1) Children have permanency and stability in the children's living situations.

(2) The continuity of children's family relationships and community connections is preserved.

- c. Child and family well-being.
 - (1) Family capacity to provide for the needs of the children who are part of the family is enhanced.
 - (2) Children receive appropriate services to meet the children's educational needs.
 - (3) Children receive additional services that are appropriate to meet the children's physical and mental health needs.
 - (4) Youth who are becoming adults and leaving the service system for children will receive appropriate services to make the transition to become self-sufficient and contributing members of the community.
 - d. Public safety. Communities are protected from juvenile crime.
 - e. Accountability. Communities are made whole through completion of community service activities assigned to juvenile offenders.
 - f. Rehabilitation. Youth receive appropriate services and make measurable progress toward acquiring the skills that are essential to law-abiding, productive citizens.
2. CHILDREN INVOLVED. The service system redesign shall address the needs of children who are referred to the department of human services or juvenile court services, including but not limited to all of the following:
- a. Children adjudicated as a child in need of assistance under chapter 232.
 - b. Children adjudicated delinquent under chapter 232 or alleged to have committed a delinquent act and identified in a police report or other formal complaint received by juvenile court services.
 - c. Children subject to emergency removal under chapter 232 or placed for emergency care under section 232.20 or 232.21.
 - d. Children identified through a child abuse assessment conducted in accordance with section 232.71B as being at risk of harm from maltreatment due to child abuse.
3. DESIGN PRINCIPLES. The service system redesign shall incorporate all of the following design principles:
- a. Outcomes can be achieved in the most efficient and cost-effective manner possible.
 - b. The roles of public and private child welfare staff and the state institutions in the redesigned system's delivery model are clarified.
 - c. The financing structure maximizes state and federal funding with as much flexibility as possible and directs funds to services and other support based upon the needs of children and families.
 - d. The methodology for purchasing performance outcomes includes definitions of performance expectations, reimbursement provisions, financial incentives, provider flexibility provisions, and viable protection provisions for children, the state, and providers.
 - e. The regulatory and contract monitoring approaches are designed to assure effective oversight and quality and to address federal program and budget accountability expectations, with appropriate recognition of the need to balance the impact upon service providers.
 - f. The administrative aspects address system planning and support, data collection, management information systems, training, policy development, and budgeting.
4. DESIGN CONSIDERATIONS. The service system redesign shall address all of the following design considerations:
- a. Successful outcome and performance-based system changes made in other states and communities are incorporated.
 - b. Linkages are made with the existing community planning efforts and partnerships are promoted with parents, the courts, the department, and service providers. The redesign shall build upon successful Iowa programs such as community partnerships for protecting children, child welfare funding decategorization projects, and quality service reviews.
 - c. Federal program and budget accountability expectations are addressed.
 - d. Linkages with other critical service systems are effectively incorporated, including but not limited to the systems for mental health, domestic abuse, and substance abuse services, and the judicial branch.
 - e. Options are considered for implementation of an acuity-based, case rate system that

offers bonuses or other incentives for providers that achieve identified results and for providers that are able to develop strategic and collaborative relationships with other providers.

f. Policy options are developed to address the needs of difficult-to-treat children, such as no-object, no-reject time periods.

g. Implementation of evidence-based and continuous learning practices are promoted in the public and private sectors in order to measure and improve outcomes.

5. REDESIGN PLANNING PROCESS. The department of human services shall implement an inclusive process for the service system redesign utilizing a stakeholder panel to involve a broad spectrum of input into the redesign planning, design, implementation, and evaluation process. The stakeholder panel membership may include but is not limited to representation from all of the following:

a. Service consumers.

b. Judicial branch and justice system.

c. Service providers.

d. Community-based collaboration efforts such as child welfare decategorization projects and community partnership for child protection projects.

e. Foster and adoptive parents.

f. Advocacy groups.

g. Departmental staff.

h. Education and special education practitioners.

i. Others.

6. LEGISLATIVE MONITORING. A six-member legislative committee is established to monitor the service system redesign planning and implementation. The members shall be appointed as follows: two members by the senate majority leader, one member by the senate minority leader, two members by the speaker of the house of representatives, and one member by the minority leader of the house of representatives. The committee shall provide advice and consultation to the department and consider any legislative changes that may be needed for implementation.

7. IMPLEMENTATION. The following implementation provisions apply to the service system redesign:

a. Implementation of the redesign plan shall begin no later than January 1, 2004.

b. The department of human services may adopt emergency rules under section 17A.4, subsection 2, and section 17A.5, subsection 2, paragraph "b", to implement the provisions of this section and the rules shall be effective immediately upon filing or on a later date specified in the rules, unless the effective date is delayed by the administrative rules review committee. Any rules adopted in accordance with this paragraph shall not take effect before the rules are reviewed by the administrative rules review committee. The delay authority provided to the administrative rules review committee under section 17A.4, subsection 5, and section 17A.8, subsection 9, shall be applicable to a delay imposed under this paragraph, notwithstanding a provision in those sections making them inapplicable to section 17A.5, subsection 2, paragraph "b". Any rules adopted in accordance with this paragraph shall also be published as a notice of intended action as provided in section 17A.4.

c. The director of human services shall seek any federal waiver or federal plan amendment relating to funding provided under Title IV-B, IV-E, or XIX of the federal Social Security Act necessary to implement the service system redesign.

8. STATUTORY REQUIREMENTS. The requirements of sections 18.6¹² and 72.3 and the administrative rules implementing section 8.47 are not applicable to the services procurement process used to implement the outcomes-based service system redesign in accordance with this section. The department of human services may enter into competitive negotiations and proposal modifications with each successful contractor as necessary to implement the provisions of this section.

9. APPROPRIATIONS REDUCTION. The appropriations made from the general fund of the state to the department of human services for the fiscal year beginning July 1, 2003, and ending June 30, 2004, in 2003 Iowa Acts, House File 667,¹³ if enacted, for services, staffing, and

¹² See chapter 179, §80 herein

¹³ Chapter 175 herein

support related to the service system redesign are reduced by \$10,000,000. The governor shall apply the appropriations reductions on or before January 1, 2004, following consultation with the director of human services, the council on human services, and the legislative monitoring committee established pursuant to this section. The appropriations subject to reduction shall include but are not limited to the appropriations made for child and family services, field operations, medical assistance program, and general administration. The appropriations reductions applied by the governor shall be reported to the general assembly on the date the reductions are applied. If the judicial branch reports a revision to the judicial branch budget for juvenile court services making a reduction as a result of the service system redesign, the amount of the reductions applied by the governor shall be reduced by the same amount.

Sec. 45. CHILD WELFARE SYSTEM REDESIGN. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 2003, and ending June 30, 2004, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. For training of service providers and departmental employees in performance contracting, new service roles, and other skills and information related to the redesign of the child welfare service system, and for the development of a statewide information system for implementation of changes associated with the service system redesign:

..... \$ 1,200,000

2. For deposit in a provider loan fund, which shall be created in the office of the treasurer of state under the authority of the department of human services, to be used to assist child welfare service providers with short-term cash flow needs:

..... \$ 1,000,000

Moneys in the provider loan fund are appropriated to the department for use in accordance with this subsection. The department shall determine the length and interest rate for loans, if any. Loan repayment proceeds shall be credited to the provider loan fund and are appropriated to the department to be used for other loans.

Sec. 46. Section 2C.9, Code 2003, is amended by adding the following new subsection:

NEW SUBSECTION. 1A. Investigate, on complaint or on the citizens' aide's own motion, any administrative action of any person providing child welfare or juvenile justice services under contract with an agency that is subject to investigation by the citizens' aide. The person shall be considered to be an agency for purposes of the citizens' aide's investigation.

DIVISION XVI DEPARTMENT OF HUMAN SERVICES REINVENTION

Sec. 47. APPROPRIATIONS REDUCTION. The appropriations made from the general fund of the state for the fiscal year beginning July 1, 2003, and ending June 30, 2004, to the department of human services in 2003 Iowa Acts, House File 667,¹⁴ if enacted, are reduced by \$300,000 to reflect the anticipated savings from the electronic payment of benefits and billings implemented pursuant to this division of this Act. The governor shall apply the appropriations reductions on or before January 1, 2004, following consultation with the director of human services and the council on human services. The appropriations reductions applied by the governor shall be reported to the general assembly on the date the reductions are applied.

Sec. 48. SYSTEM EFFICIENCIES — ELECTRONIC BILLING AND PAYMENT — COMPATIBILITY — COMMUNICATIONS.

1. The department of human services shall develop a plan to provide all provider payments under the medical assistance program on an electronic basis by June 30, 2005.

2. The department of human services shall submit a plan to implement an electronic billing and payment system for child care providers to the governor and the general assembly by January 1, 2004.

¹⁴ Chapter 175 herein

3. In developing any billing, payment, or eligibility systems, the department of human services shall ensure that the systems are compatible.

4. The department of human services shall investigate measures to increase effective and efficient communications with clients, including but not limited to reducing duplicative mailings, and shall submit a report of recommendations to the governor and the general assembly by January 1, 2004.

Sec. 49. MEDICAL ASSISTANCE PROGRAM REDESIGN.

1. The department of human services shall establish a work group in cooperation with representatives of the insurance industry¹⁵ to develop a plan for the redesign of the medical assistance program. In developing the redesign plan, the work group shall consider all of the following:

a. Iowa's medical assistance program cannot be sustained in a manner that provides care for participants at the current rate of growth.

b. Iowans deserve a health care safety net that provides health care that is timely, effective, and responsive to individual needs.

c. Iowans would be better served, at a lower cost to taxpayers, if persons who are at risk of becoming medical assistance recipients due to their income, health, and insurance status could be identified and insured.

d. Iowa's children and families would benefit from the use of a medical home model that links children and families to an ongoing source of medical care that ensures access to and appropriate utilization of medical services including preventive services.

e. Iowa's senior population should have more options available to address the population's health care needs including home and community-based services and assisted living.

2. The redesign plan shall include measures such as providing state funding for health care spending accounts for families in the medical assistance program in order to provide incentives for effective health care cost management, providing an insurance-like benefit package for those individuals with extensive medical needs that emphasizes flexible and preventive care through case management, moving to an acuity-based reimbursement system for dually eligible seniors, and developing an evidence-based pharmaceutical program.

3. The department shall submit a progress report of the work group's recommendations for medical assistance program redesign to the governor and the general assembly by January 15, 2004.

Sec. 50. MEDICAL ASSISTANCE APPROPRIATION REDUCTION. The appropriation made from the general fund of the state for the fiscal year beginning July 1, 2003, and ending June 30, 2004, to the department of human services in 2003 Iowa Acts, House File 667,¹⁶ if enacted, for medical assistance is reduced by \$7,500,000.

Sec. 51. HOSPITAL TRUST FUND — MEDICAL ASSISTANCE SUPPLEMENT.

1. Notwithstanding 2002 Iowa Acts, chapter 1003, Second Extraordinary Session, sections 150 and 151, as the sections relate to the hospital trust fund, moneys shall not be transferred from the hospital trust fund at the end of the fiscal year beginning July 1, 2003.

2. There is appropriated from the hospital trust fund to the department of human services for the fiscal year beginning July 1, 2003, and ending June 30, 2004, the following amount, or so much thereof as is necessary to be used for the purposes designated:

To supplement the medical assistance appropriation made in 2003 Iowa Acts, House File 667,¹⁷ if enacted:

..... \$ 14,000,000

The appropriation made in this subsection shall include moneys in the hospital trust fund that remain unencumbered or unobligated at the end of the fiscal year beginning July 1, 2002, and ending June 30, 2003.

Sec. 52. IOWA JUVENILE HOME. The appropriation made from the general fund of the

¹⁵ See chapter 179, §141 herein

¹⁶ Chapter 175 herein

¹⁷ Chapter 175 herein

state for the fiscal year beginning July 1, 2003, and ending June 30, 2004, to the department of human services in 2003 Iowa Acts, House File 667,¹⁸ if enacted, for the Iowa juvenile home at Toledo, is reduced by \$410,540.

Sec. 53. STATE TRAINING SCHOOL. The appropriation made from the general fund of the state for the fiscal year beginning July 1, 2003, and ending June 30, 2004, to the department of human services in 2003 Iowa Acts, House File 667,¹⁹ if enacted, for the state training school at Eldora is reduced by \$1,239,227.

Sec. 54. INDEPENDENCE MHI. The appropriation made from the general fund of the state for the fiscal year beginning July 1, 2003, and ending June 30, 2004, to the department of human services in 2003 Iowa Acts, House File 667,²⁰ if enacted, for the state mental health institute at Independence, is reduced by \$544,192.

Sec. 55. NEW SECTION. 249A.32 PHARMACEUTICAL SETTLEMENT ACCOUNT — MEDICAL ASSISTANCE PROGRAM.

1. A pharmaceutical settlement account is created in the state treasury under the authority of the department of human services. Moneys received from settlements relating to provision of pharmaceuticals under the medical assistance program shall be deposited in the account.

2. Moneys in the account shall be used only as provided in appropriations from the account to the department for the purpose of technology upgrades under the medical assistance program.

3. The account shall be separate from the general fund of the state and shall not be considered part of the general fund of the state. The moneys in the account shall not be considered revenue of the state, but rather shall be funds of the account. The moneys in the account are not subject to reversion to the general fund of the state under section 8.33 and shall not be transferred, used, obligated, appropriated, or otherwise encumbered, except to provide for the purposes of this section. Notwithstanding section 12C.7, subsection 2, interest or earnings on moneys deposited in the account shall be credited to the account.

4. The treasurer of state shall provide a quarterly report of account activities and balances to the director.

Sec. 56. Section 256.7, subsection 10, Code 2003, is amended to read as follows:

10. Adopt rules pursuant to chapter 17A relating to educational programs and budget limitations for educational programs pursuant to sections ~~282.28, 282.29, 282.30, and 282.31, and~~ 282.33.

Sec. 57. Section 282.32, Code 2003, is amended to read as follows:

282.32 APPEAL.

An area education agency or local school district may appeal a decision made pursuant to section ~~282.28 or 282.31~~ to the state board of education. The decision of the state board is final.

Sec. 58. NEW SECTION. 282.33 FUNDING FOR CHILDREN RESIDING IN STATE MENTAL HEALTH INSTITUTES OR INSTITUTIONS.

1. A child who resides in an institution for children under the jurisdiction of the director of human services referred to in section 218.1, subsection 3, 5, 7, or 8, and who is not enrolled in the educational program of the district of residence of the child, shall receive appropriate educational services. The institution in which the child resides shall submit a proposed program and budget based on the average daily attendance of the children residing in the institution to the department of education and the department of human services by January 1 for the next succeeding school year. The department of education shall review and approve or modify the proposed program and budget and shall notify the department of revenue and finance of its action by February 1. The department of revenue and finance shall pay the approved budget amount to the department of human services in monthly installments

¹⁸ Chapter 175 herein

¹⁹ Chapter 175 herein

²⁰ Chapter 175 herein

beginning September 15 and ending June 15 of the next succeeding school year. The installments shall be as nearly equal as possible as determined by the department of revenue and finance, taking into consideration the relative budget and cash position of the state's resources. The department of revenue and finance shall pay the approved budget amount for the department of human services from the moneys appropriated under section 257.16 and the department of human services shall distribute the payment to the institution. The institution shall submit an accounting for the actual cost of the program to the department of education by August 1 of the following school year. The department shall review and approve or modify all expenditures incurred in compliance with the guidelines adopted pursuant to section 256.7, subsection 10, and shall notify the department of revenue and finance of the approved accounting amount. The approved accounting amount shall be compared with any amounts paid by the department of revenue and finance to the department of human services and any differences added to or subtracted from the October payment made under this subsection for the next school year. Any amount paid by the department of revenue and finance shall be deducted monthly from the state foundation aid paid under section 257.16 to all school districts in the state during the subsequent fiscal year. The portion of the total amount of the approved budget that shall be deducted from the state aid of a school district shall be the same as the ratio that the budget enrollment for the budget year of the school district bears to the total budget enrollment in the state for that budget year in which the deduction is made.

2. Programs may be provided during the summer and funded under this section if the institution determines a valid educational reason to do so and the department of education approves the program in the manner provided in subsection 1.

Sec. 59. Section 282.28, Code 2003, is repealed.

Sec. 60. FY 2003-2004 FUNDING. For purposes of providing funding for educational programs provided to children residing in an institution for children under the jurisdiction of the director of human services referred to in section 218.1, subsection 3, 5, 7, or 8, the institution providing such programs to children residing in the institution shall submit an estimated proposed program and budget based on the estimated average daily attendance of children who will likely be provided educational programs during the fiscal year beginning July 1, 2003, and ending June 30, 2004, to the department of education and the department of human services by August 1, 2003. The budget for the institutions referred to in section 218.1, subsections 7 and 8, shall include funds to access services from the area education agency in the manner in which the services were accessed from the area education agency in the fiscal year beginning July 1, 2002. The department of education shall review and approve or modify the proposed program and budget and shall notify the department of revenue and finance of its action by September 1, 2003. The department of revenue and finance shall pay the approved budget amount, and the department of human services shall distribute payments, as provided in section 282.33.

Sec. 61. EFFECTIVE DATE. The section of this division of this Act relating to appropriation of moneys in the hospital trust fund, being deemed of immediate importance, takes effect upon enactment.

DIVISION XVII REINVENTION INVESTMENT

Sec. 62. DEPARTMENT OF MANAGEMENT. There is appropriated from the general fund of the state to the department of management for the fiscal year beginning July 1, 2003, and ending June 30, 2004, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For investment in reinvention initiatives intended to produce ongoing savings, in addition

to funds appropriated for this purpose in 2003 Iowa Acts, House File 655,²¹ section 11, subsection 3, if enacted:

..... \$ 1,350,000

DIVISION XVIII
IOWA LOTTERY AUTHORITY²²

Sec. 63. NEW SECTION. 99G.1 TITLE.

This chapter may be cited as the "Iowa Lottery Authority Act".

Sec. 64. NEW SECTION. 99G.2 STATEMENT OF PURPOSE AND INTENT.

The general assembly finds and declares the following:

1. That net proceeds of lottery games conducted pursuant to this chapter should be transferred to the general fund of the state in support of a variety of programs and services.
2. That lottery games are an entrepreneurial enterprise and that the state should create a public instrumentality of the state in the form of a nonprofit authority known as the Iowa lottery authority with comprehensive and extensive powers to operate a state lottery in an entrepreneurial and businesslike manner and which is accountable to the governor, the general assembly, and the people of the state through a system of audits, reports, legislative oversight, and thorough financial disclosure as required by this chapter.
3. That lottery games shall be operated and managed in a manner that provides continuing entertainment to the public, maximizes revenues, and ensures that the lottery is operated with integrity and dignity and free from political influence.

Sec. 65. NEW SECTION. 99G.3 DEFINITIONS.

As used in this chapter, unless the context clearly requires otherwise:

1. "Administrative expenses" includes, but is not limited to, personnel costs, travel, purchase of equipment and all other expenses not directly associated with the operation or sale of a game.
2. "Authority" means the Iowa lottery authority.
3. "Board" means the board of directors of the authority.
4. "Chief executive officer" means the chief executive officer of the authority.
5. "Game specific rules" means rules governing the particular features of specific games, including, but not limited to, setting the name, ticket price, prize structure, and prize claim period of the game.
6. "Instant lottery" or "instant ticket" means a game that offers preprinted tickets such that when a protective coating is scratched or scraped away, it indicates immediately whether the player has won.
7. "Lottery", "lotteries", "lottery game", "lottery games" or "lottery products" means any game of chance approved by the board and operated pursuant to this chapter and games using mechanical or electronic devices, provided that the authority shall not authorize a player-activated gaming machine that utilizes an internal randomizer to determine winning and non-winning plays and that upon random internal selection of a winning play dispenses coins, currency, or a ticket, credit, or token to the player that is redeemable for cash or a prize, and excluding gambling or gaming conducted pursuant to chapter 99B, 99D, or 99F.
8. "Major procurement contract" means a consulting agreement or a contract with a business organization for the printing of tickets or the purchase or lease of equipment or services essential to the operation of a lottery game.
9. "Net proceeds" means all revenue derived from the sale of lottery tickets or shares and all other moneys derived from the lottery, less operating expenses.
10. "On-line lotto" means a lottery game connected to a central computer via telecommunications in which the player selects a specified group of numbers, symbols, or characters out of a predetermined range.

²¹ Chapter 181 herein

²² See chapter 179, §142 herein

11. "Operating expenses" means all costs of doing business, including, but not limited to, prizes and associated prize reserves, computerized gaming system vendor expense, instant and pull-tab ticket expense, and other expenses directly associated with the operation or sale of any game, compensation paid to retailers, advertising and marketing costs, and administrative expenses.

12. "Pull-tab ticket" or "pull-tab" means a game that offers preprinted paper tickets with the play data hidden beneath a protective tab or seal that when opened reveals immediately whether the player has won.

13. "Retailer" means a person, licensed by the authority, who sells lottery tickets or shares on behalf of the authority pursuant to a contract.

14. "Share" means any intangible evidence of participation in a lottery game.

15. "Ticket" means any tangible evidence issued by the lottery to provide participation in a lottery game.

16. "Vendor" means a person who provides or proposes to provide goods or services to the authority pursuant to a major procurement contract, but does not include an employee of the authority, a retailer, or a state agency or instrumentality thereof.

Sec. 66. NEW SECTION. 99G.4 IOWA LOTTERY AUTHORITY CREATED.

1. An Iowa lottery authority is created, effective September 1, 2003, which shall administer the state lottery. The authority shall be deemed to be a public authority and an instrumentality of the state, and not a state agency. However, the authority shall be considered a state agency for purposes of chapters 17A, 21, 22, 28E, 68B, 91B, 97B, 509A, and 669.

2. The income and property of the authority shall be exempt from all state and local taxes, and the sale of lottery tickets and shares issued and sold by the authority and its retail licensees shall be exempt from all state and local sales taxes.

Sec. 67. NEW SECTION. 99G.5 CHIEF EXECUTIVE OFFICER.

The chief executive officer of the authority shall be appointed by the governor subject to confirmation by the senate and shall serve a four-year term of office beginning and ending as provided in section 69.19. The chief executive officer shall be qualified by training and experience to manage a lottery. The governor may remove the chief executive officer for malfeasance in office, or for any cause that renders the chief executive officer ineligible, incapable, or unfit to discharge the duties of the office. Compensation and employment terms of the chief executive officer shall be set by the governor, taking into consideration the officer's level of education and experience, as well as the success of the lottery. The chief executive officer shall be an employee of the authority and shall direct the day-to-day operations and management of the authority and be vested with such powers and duties as specified by the board and by law.

Sec. 68. NEW SECTION. 99G.6 POWER TO ADMINISTER OATHS AND TAKE TESTIMONY — SUBPOENA.

The chief executive officer or the chief executive officer's designee if authorized to conduct an inquiry, investigation, or hearing under this chapter may administer oaths and take testimony under oath relative to the matter of inquiry, investigation, or hearing. At a hearing ordered by the chief executive officer, the chief executive officer or the designee may subpoena witnesses and require the production of records, paper, or documents pertinent to the hearing.

Sec. 69. NEW SECTION. 99G.7 DUTIES OF THE CHIEF EXECUTIVE OFFICER.

1. The chief executive officer of the authority shall direct and supervise all administrative and technical activities in accordance with the provisions of this chapter and with the administrative rules, policies, and procedures adopted by the board. The chief executive officer shall do all of the following:

- a. Facilitate the initiation and supervise and administer the operation of the lottery games.
- b. Employ an executive vice president, who shall act as chief executive officer in the absence

of the chief executive officer, and employ and direct other such personnel as deemed necessary.

c. Contract with and compensate such persons and firms as deemed necessary for the operation of the lottery.

d. Promote or provide for promotion of the lottery and any functions related to the authority.

e. Prepare a budget for the approval of the board.

f. Require bond from such retailers and vendors in such amounts as required by the board.

g. Report semiannually to the legislative government oversight committees regarding the operations of the authority.

h. Report quarterly and annually to the board, the governor, the auditor of state, and the general assembly a full and complete statement of lottery revenues and expenses for the preceding quarter, and with respect to the annual report, for the preceding year and transfer proceeds to the general fund within thirty days following the end of the quarter.

i. Perform other duties generally associated with a chief executive officer of an authority of an entrepreneurial nature.

2. The chief executive officer shall conduct an ongoing study of the operation and administration of lottery laws similar to this chapter in other states or countries, of available literature on the subject, of federal laws and regulations which may affect the operation of the lottery and of the reaction of citizens of this state to existing or proposed features of lottery games with a view toward implementing improvements that will tend to serve the purposes of this chapter.

3. The chief executive officer may for good cause suspend, revoke, or refuse to renew any contract entered into in accordance with the provisions of this chapter or the administrative rules, policies, and procedures of the board.

4. The chief executive officer or the chief executive officer's designee may conduct hearings and administer oaths to persons for the purpose of assuring the security or integrity of lottery operations or to determine the qualifications of or compliance by vendors and retailers.

Sec. 70. NEW SECTION. 99G.8 BOARD OF DIRECTORS.

1. The authority shall be administered by a board of directors comprised of five members appointed by the governor subject to confirmation by the senate. Board members appointed when the senate is not in session shall serve only until the end of the next regular session of the general assembly, unless confirmed by the senate.

2. Board members shall serve staggered terms of four years beginning and ending as provided in section 69.19. No more than three board members shall be from the same political party.

3. Board members may be removed by the governor for neglect of duty, misfeasance, or nonfeasance in office.

4. No officer or employee of the authority shall be a member of the board.

5. Board members shall be residents of the state of Iowa, shall be prominent persons in their respective businesses or professions, and shall not have been convicted of any felony offense. Of the members appointed, the governor shall appoint to the board an attorney admitted to the practice of law in Iowa, an accountant, a person who is or has been a law enforcement officer, and a person having expertise in marketing.

6. A majority of members in office shall constitute a quorum for the transaction of any business and for the exercise of any power or function of the authority.

7. Action may be taken and motions and resolutions adopted by the board at any meeting thereof by the affirmative vote of a majority of present and voting board members.

8. No vacancy in the membership of the board shall impair the right of the members to exercise all the powers and perform all the duties of the board.

9. Board members shall be considered to hold public office and shall give bond as such as required in chapter 64.

10. Board members shall be entitled to receive a per diem as specified in section 7E.6 for each day spent in performance of duties as members, and shall be reimbursed for all actual

and necessary expenses incurred in the performance of their official duties as members. No person who serves as a member of the board shall by reason of such membership be eligible for membership in the Iowa public employees' retirement system and service on the board shall not be eligible for service credit for any public retirement system.

11. The board shall meet at least quarterly and at such other times upon call of the chairperson or the president. Notice of the time and place of each board meeting shall be given to each member. The board shall also meet upon call of three or more of the board members. The board shall keep accurate and complete records of all its meetings.

12. Meetings of the board shall be governed by the provisions of chapter 21.

13. Board members shall not have any direct or indirect interest in an undertaking that puts their personal interest in conflict with that of the authority, including, but not limited to, an interest in a major procurement contract or a participating retailer.

14. The members shall elect from their membership a chairperson and vice chairperson.

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

Sec. 71. NEW SECTION. 99G.9 BOARD DUTIES.

The board shall provide the chief executive officer with private-sector perspectives of a large marketing enterprise. The board shall do all of the following:

1. Approve, disapprove, amend, or modify the budget recommended by the chief executive officer for the operation of the authority.

2. Approve, disapprove, amend, or modify the terms of major lottery procurements recommended by the chief executive officer.

3. Adopt policies and procedures and promulgate administrative rules pursuant to chapter 17A relating to the management and operation of the authority. The administrative rules promulgated pursuant to this subsection may include but shall not be limited to the following:

a. The type of games to be conducted.

b. The sale price of tickets or shares and the manner of sale, including but not limited to authorization of sale of tickets or shares at a discount for marketing purposes, provided, however, that a retailer may accept payment by cash, check, money order, debit card, or electronic funds transfer and shall not extend or arrange credit for the purchase of a ticket or share. As used in this section, "cash" means United States currency.

c. The number and amount of prizes, including but not limited to prizes of free tickets or shares in lottery games conducted by the authority and merchandise prizes. The authority shall maintain and make available for public inspection at its offices during regular business hours a detailed listing of the estimated number of prizes of each particular denomination that are expected to be awarded in any game that is on sale or the estimated odds of winning the prizes and, after the end of the claim period, shall maintain and make available a listing of the total number of tickets or shares sold in a game and the number of prizes of each denomination that were awarded.

d. The method and location of selecting or validating winning tickets or shares.

e. The manner and time of payment of prizes, which may include lump-sum payments or installments over a period of years.

f. The manner of payment of prizes to the holders of winning tickets or shares after performing validation procedures appropriate to the game and as specified by the board.

g. The frequency of games and drawings or selection of winning tickets or shares.

h. The means of conducting drawings, provided that drawings shall be open to the public and witnessed by an independent certified public accountant. Equipment used to select winning tickets or shares or participants for prizes shall be examined by an independent certified public accountant prior to and after each drawing.

i. The manner and amount of compensation to lottery retailers.

j. The engagement and compensation of audit services.²³

k. Any and all other matters necessary, desirable, or convenient toward ensuring the effi-

²³ See chapter 179, §108 herein

cient and effective operation of lottery games, the continued entertainment and convenience of the public, and the integrity of the lottery.

4. Adopt game specific rules. The promulgation of game specific rules shall not be subject to the requirements of chapter 17A. However, game specific rules shall be made available to the public prior to the time the games go on sale and shall be kept on file at the office of the authority.

5. Perform such other functions as specified by this chapter.

Sec. 72. NEW SECTION. 99G.10 AUTHORITY PERSONNEL.

1. All employees of the authority shall be considered public employees.

2. Subject to the approval of the board, the chief executive officer shall have the sole power to designate particular employees as key personnel, but may take advice from the department of personnel in making any such designations. All key personnel shall be exempt from the merit system described in chapter 19A. The chief executive officer and the board shall have the sole power to employ, classify, and fix the compensation of key personnel. All other employees shall be employed, classified, and compensated in accordance with chapters 19A and 20.²⁴

3. The chief executive officer and the board shall have the exclusive power to determine the number of full-time equivalent positions, as defined in chapter 8, necessary to carry out the provisions of this chapter.

4. The chief executive officer shall have the sole responsibility to assign duties to all authority employees.

5. The authority may establish incentive programs for authority employees.

6. An employee of the authority shall not have a financial interest in any vendor doing business or proposing to do business with the authority. However, an employee may own shares of a mutual fund which may hold shares of a vendor corporation provided the employee does not have the ability to influence the investment functions of the mutual fund.

7. An employee of the authority with decision-making authority shall not participate in any decision involving a retailer with whom the employee has a financial interest.

8. A background investigation shall be conducted by the department of public safety, division of criminal investigation, on each applicant who has reached the final selection process prior to employment by the authority. For positions not designated as sensitive by the board, the investigation may consist of a state criminal history background check, work history, and financial review. The board shall identify those sensitive positions of the authority which require full background investigations, which positions shall include, at a minimum, any officer of the authority, and any employee with operational management responsibilities, security duties, or system maintenance or programming responsibilities related to the authority's data processing or network hardware, software, communication, or related systems. In addition to a work history and financial review, a full background investigation may include a national criminal history record check through the federal bureau of investigation. The screening of employees through the federal bureau of investigation shall be conducted by submission of fingerprints through the state criminal history record repository to the federal bureau of investigation. The results of background investigations conducted pursuant to this section shall not be considered public records under chapter 22.

9. A person who has been convicted of a felony or bookmaking or other form of illegal gambling or of a crime involving moral turpitude shall not be employed by the authority.

10. The authority shall bond authority employees with access to authority funds or lottery revenue in such an amount as provided by the board and may bond other employees as deemed necessary.

Sec. 73. NEW SECTION. 99G.11 CONFLICTS OF INTEREST.

1. A member of the board, any officer, or other employee of the authority shall not directly or indirectly, individually, as a member of a partnership or other association, or as a shareholder, director, or officer of a corporation have an interest in a business that contracts for the

²⁴ See chapter 179, §60, 84 herein

operation or marketing of the lottery as authorized by this chapter, unless the business is controlled or operated by a consortium of lotteries in which the authority has an interest.

2. Notwithstanding the provisions of chapter 68B, a person contracting or seeking to contract with the state to supply gaming equipment or materials for use in the operation of the lottery, an applicant for a license to sell tickets or shares in the lottery, or a retailer shall not offer a member of the board, any officer, or other employee of the authority, or a member of their immediate family a gift, gratuity, or other thing having a value of more than the limits established in chapter 68B, other than food and beverage consumed at a meal. For purposes of this subsection, "member of their immediate family" means a spouse, child, stepchild, brother, brother-in-law, stepbrother, sister, sister-in-law, stepsister, parent, parent-in-law, or step-parent of the board member, the officer, or other employee who resides in the same household in the same principal residence of the board member, officer, or other employee.

3. If a board member, officer, or other employee of the authority violates a provision of this section, the board member, officer, or employee shall be immediately removed from the office or position.

4. Enforcement of this section against a board member, officer, or other employee shall be by the attorney general who upon finding a violation shall initiate an action to remove the board member, officer, or employee.

5. A violation of this section is a serious misdemeanor.

Sec. 74. NEW SECTION. 99G.21 AUTHORITY POWERS, TRANSFER OF ASSETS, LIABILITIES, AND OBLIGATIONS.

1. Funds of the state shall not be used or obligated to pay the expenses or prizes of the authority.

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

- a. To sue and be sued and to complain and defend in all courts.
- b. To adopt and alter a seal.
- c. To procure or to provide insurance.
- d. To hold copyrights, trademarks, and service marks and enforce its rights with respect thereto.
- e. To initiate, supervise, and administer the operation of the lottery in accordance with the provisions of this chapter and administrative rules, policies, and procedures adopted pursuant thereto.
- f. To enter into written agreements with one or more other states or territories of the United States, or one or more political subdivisions of another state or territory of the United States, or any entity lawfully operating a lottery outside the United States for the operation, marketing, and promotion of a joint lottery or joint lottery game. For the purposes of this subsection, any lottery with which the authority reaches an agreement or compact shall meet the criteria for security, integrity, and finance set by the board.
- g. To conduct such market research as is necessary or appropriate, which may include an analysis of the demographic characteristics of the players of each lottery game, and an analysis of advertising, promotion, public relations, incentives, and other aspects of communication.
- h. Subject to the provisions of subsection 3, to acquire or lease real property and make improvements thereon and acquire by lease or by purchase, personal property, including, but not limited to, computers; mechanical, electronic, and on-line equipment and terminals; and intangible property, including, but not limited to, computer programs, systems, and software.
- i. Subject to the provisions of subsection 3, to enter into contracts to incur debt in its own name and enter into financing agreements with the state, agencies or instrumentalities of the state, or with any commercial bank or credit provider.
- j. To select and contract with vendors and retailers.

k. To enter into contracts or agreements with state or local law enforcement agencies for the performance of law enforcement, background investigations, and security checks.

l. To enter into contracts of any and all types on such terms and conditions as the authority may determine necessary.

m. To establish and maintain banking relationships, including, but not limited to, establishment of checking and savings accounts and lines of credit.

n. To advertise and promote the lottery and lottery games.

o. To act as a retailer, to conduct promotions which involve the dispensing of lottery tickets or shares, and to establish and operate a sales facility to sell lottery tickets or shares and any related merchandise.

p. Notwithstanding any other provision of law to the contrary, to purchase meals for attendees at authority business meetings.

q. To exercise all powers generally exercised by private businesses engaged in entrepreneurial pursuits, unless the exercise of such a power would violate the terms of this chapter or of the Constitution of this state.

3. Notwithstanding any other provision of law, any purchase of real property and any borrowing of more than one million dollars by the authority shall require written notice from the authority to the legislative government oversight committees and the prior approval of the executive council.

4. The powers enumerated in this section are cumulative of and in addition to those powers enumerated elsewhere in this chapter and no such powers limit or restrict any other powers of the authority.

5. Departments, boards, commissions, or other agencies of this state shall provide reasonable assistance and services to the authority upon the request of the chief executive officer.

Sec. 75. NEW SECTION. 99G.22 VENDOR BACKGROUND REVIEW.

1. The authority shall investigate the financial responsibility, security, and integrity of any lottery system vendor who is a finalist in submitting a bid, proposal, or offer as part of a major procurement contract. Before a major procurement contract is awarded, the division of criminal investigation of the department of public safety shall conduct a background investigation of the vendor to whom the contract is to be awarded. The chief executive officer and board shall consult with the division of criminal investigation and shall provide for the scope of the background investigation and due diligence to be conducted in connection with major procurement contracts. At the time of submitting a bid, proposal, or offer to the authority on a major procurement contract, the authority shall require that each vendor submit to the division of criminal investigation appropriate investigation authorization to facilitate this investigation, together with an advance of funds to meet the anticipated investigation costs. If the division of criminal investigation determines that additional funds are required to complete an investigation, the vendor will be so advised. The background investigation by the division of criminal investigation may include a national criminal history record check through the federal bureau of investigation. The screening of vendors or their employees through the federal bureau of investigation shall be conducted by submission of fingerprints through the state criminal history record repository to the federal bureau of investigation.²⁵

2. If at least twenty-five percent of the cost of a vendor's contract is subcontracted, the vendor shall disclose all of the information required by this section for the subcontractor as if the subcontractor were itself a vendor.

3. A major procurement contract shall not be entered into with any lottery system vendor who has not complied with the disclosure requirements described in this section, and any contract with such a vendor is voidable at the option of the authority. Any contract with a vendor that does not comply with the requirements for periodically updating such disclosures during the tenure of the contract as may be specified in such contract may be terminated by the authority. The provisions of this section shall be construed broadly and liberally to achieve the ends of full disclosure of all information necessary to allow for a full and complete evaluation

²⁵ See chapter 179, §61 herein

by the authority of the competence, integrity, background, and character of vendors for major procurements.

4. A major procurement contract shall not be entered into with any vendor who has been found guilty of a felony related to the security or integrity of the lottery in this or any other jurisdiction.

5. A major procurement contract shall not be entered into with any vendor if such vendor has an ownership interest in an entity that had supplied consultation services under contract to the authority regarding the request for proposals pertaining to those particular goods or services.

6. If, based on the results of a background investigation, the board determines that the best interests of the authority, including but not limited to the authority's reputation for integrity, would be served thereby, the board may disqualify a potential vendor from contracting with the authority for a major procurement contract or from acting as a subcontractor in connection with a contract for a major procurement contract.

Sec. 76. NEW SECTION. 99G.23 VENDOR BONDING, TAX FILING, AND COMPETITIVE BIDDING.

1. The authority may purchase, lease, or lease-purchase such goods or services as are necessary for effectuating the purposes of this chapter. The authority may make procurements that integrate functions such as lottery game design, lottery ticket distribution to retailers, supply of goods and services, and advertising. In all procurement decisions, the authority shall take into account the particularly sensitive nature of the lottery and shall act to promote and ensure security, honesty, fairness, and integrity in the operation and administration of the lottery and the objectives of raising net proceeds for state programs.

2. Each vendor shall, at the execution of the contract with the authority, post a performance bond or letter of credit from a bank or credit provider acceptable to the authority in an amount as deemed necessary by the authority for that particular bid or contract.

3. Each vendor shall be qualified to do business in this state and shall file appropriate tax returns as provided by the laws of this state.

4. All major procurement contracts must be competitively bid pursuant to policies and procedures approved by the board unless there is only one qualified vendor and that vendor has an exclusive right to offer the service or product.

Sec. 77. NEW SECTION. 99G.24 RETAILER COMPENSATION — LICENSING.

1. The general assembly recognizes that to conduct a successful lottery, the authority must develop and maintain a statewide network of lottery retailers that will serve the public convenience and promote the sale of tickets or shares and the playing of lottery games while ensuring the integrity of the lottery operations, games, and activities.

2. The board shall determine the compensation to be paid to licensed retailers. Compensation may include provision for variable payments based on sales volume or incentive considerations.

3. The authority shall issue a license certificate to each person with whom it contracts as a retailer for purposes of display as provided in this section. Every lottery retailer shall post its license certificate, or a facsimile thereof, and keep it conspicuously displayed in a location on the premises accessible to the public. No license shall be assignable or transferable. Once issued, a license shall remain in effect until canceled, suspended, or terminated by the authority.

4. A licensee shall cooperate with the authority by using point-of-purchase materials, posters, and other marketing material when requested to do so by the authority. Lack of cooperation is sufficient cause for revocation of a retailer's license.

5. The board shall develop a list of objective criteria upon which the qualification of lottery retailers shall be based. Separate criteria shall be developed to govern the selection of retailers of instant tickets and online retailers. In developing these criteria, the board shall consider such factors as the applicant's financial responsibility, security of the applicant's place of business or activity, accessibility to the public, integrity, and reputation. The criteria shall include

but not be limited to the volume of expected sales and the sufficiency of existing licensees to serve the public convenience.

6. The applicant shall be current in filing all applicable tax returns to the state of Iowa and in payment of all taxes, interest, and penalties owed to the state of Iowa, excluding items under formal appeal pursuant to applicable statutes. The department of revenue and finance is authorized and directed to provide this information to the authority.

7. A person, partnership, unincorporated association, authority, or other business entity shall not be selected as a lottery retailer if the person or entity meets any of the following conditions:

- a. Has been convicted of a criminal offense related to the security or integrity of the lottery in this or any other jurisdiction.
- b. Has been convicted of any illegal gambling activity, false statements, perjury, fraud, or a felony in this or any other jurisdiction.
- c. Has been found to have violated the provisions of this chapter or any regulation, policy, or procedure of the authority or of the lottery division unless either ten years have passed since the violation or the board finds the violation both minor and unintentional in nature.
- d. Is a vendor or any employee or agent of any vendor doing business with the authority.
- e. Resides in the same household as an officer of the authority.
- f. Is less than eighteen years of age.
- g. Does not demonstrate financial responsibility sufficient to adequately meet the requirements of the proposed enterprise.
- h. Has not demonstrated that the applicant is the true owner of the business proposed to be licensed and that all persons holding at least a ten percent ownership interest in the applicant's business have been disclosed.
- i. Has knowingly made a false statement of material fact to the authority.

8. Persons applying to become lottery retailers may be charged a uniform application fee for each lottery outlet.

9. Any lottery retailer contract executed pursuant to this section may, for good cause, be suspended, revoked, or terminated by the chief executive officer or the chief executive officer's designee if the retailer is found to have violated any provision of this chapter or objective criteria established by the board. Cause for suspension, revocation, or termination may include, but is not limited to, sale of tickets or shares to a person under the age of twenty-one and failure to pay for lottery products in a timely manner.

Sec. 78. NEW SECTION. 99G.25 LICENSE NOT ASSIGNABLE.

Any lottery retailer license certificate or contract shall not be transferable or assignable. The authority may issue a temporary license when deemed in the best interests of the state. A lottery retailer shall not contract with any person for lottery goods or services, except with the approval of the board.

Sec. 79. NEW SECTION. 99G.26 RETAILER BONDING.

The authority may require any retailer to post an appropriate bond, as determined by the authority, using a cash bond or an insurance company acceptable to the authority.

Sec. 80. NEW SECTION. 99G.27 LOTTERY RETAIL LICENSES — CANCELLATION, SUSPENSION, REVOCATION, OR TERMINATION.

1. A lottery retail license issued by the authority pursuant to this chapter may be canceled, suspended, revoked, or terminated by the authority, for reasons including, but not limited to, any of the following:

- a. A violation of this chapter, a regulation, or a policy or procedure of the authority.
- b. Failure to accurately or timely account or pay for lottery products, lottery games, revenues, or prizes as required by the authority.
- c. Commission of any fraud, deceit, or misrepresentation.
- d. Insufficient sales.

- e. Conduct prejudicial to public confidence in the lottery.
 - f. The retailer filing for or being placed in bankruptcy or receivership.
 - g. Any material change as determined in the sole discretion of the authority in any matter considered by the authority in executing the contract with the retailer.
 - h. Failure to meet any of the objective criteria established by the authority pursuant to this chapter.
 - i. Other conduct likely to result in injury to the property, revenue, or reputation of the authority.
2. A lottery retailer license may be temporarily suspended by the authority without prior notice if the chief executive officer or designee determines that further sales by the licensed retailer are likely to result in immediate injury to the property, revenue, or reputation of the authority.
 3. The board shall adopt administrative rules governing appeals of lottery retailer licensing disputes.

Sec. 81. NEW SECTION. 99G.28 PROCEEDS HELD IN TRUST.

All proceeds from the sale of the lottery tickets or shares shall constitute a trust fund until paid to the authority directly, through electronic funds transfer to the authority, or through the authority's authorized collection representative. A lottery retailer and officers of a lottery retailer's business shall have a fiduciary duty to preserve and account for lottery proceeds and lottery retailers shall be personally liable for all proceeds. Proceeds shall include unsold products received but not paid for by a lottery retailer and cash proceeds of the sale of any lottery products net of allowable sales commissions and credit for lottery prizes paid to winners by lottery retailers. Sales proceeds of pull-tab tickets shall include the sales price of the lottery product net of allowable sales commission and prizes contained in the product. Sales proceeds and unused instant tickets shall be delivered to the authority or its authorized collection representative upon demand.

Sec. 82. NEW SECTION. 99G.29 RETAILER RENTAL CALCULATIONS — LOTTERY TICKET SALES TREATMENT.

If a lottery retailer's rental payments for the business premises are contractually computed, in whole or in part, on the basis of a percentage of retail sales and such computation of retail sales is not explicitly defined to include sales of tickets or shares in a state-operated or state-managed lottery, only the compensation received by the lottery retailer from the authority may be considered the amount of the lottery retail sale for purposes of computing the rental payment.

Sec. 83. NEW SECTION. 99G.30 TICKET SALES REQUIREMENTS — PENALTIES.

1. Lottery tickets or shares may be distributed by the authority for promotional purposes.
2. A ticket or share shall not be sold at a price other than that fixed by the authority and a sale shall not be made other than by a retailer or an employee of the retailer who is authorized by the retailer to sell tickets or shares. A person who violates a provision of this subsection is guilty of a simple misdemeanor.
3. A ticket or share shall not be sold to a person who has not reached the age of twenty-one. Any person who knowingly sells a lottery ticket or share to a person under the age of twenty-one shall be guilty of a simple misdemeanor. It shall be an affirmative defense to a charge of a violation under this section that the retailer reasonably and in good faith relied upon presentation of proof of age in making the sale. A prize won by a person who has not reached the age of twenty-one but who purchases a winning ticket or share in violation of this subsection shall be forfeited. This section does not prohibit the lawful purchase of a ticket or share for the purpose of making a gift to a person who has not reached the age of twenty-one. The board shall adopt administrative rules governing the payment of prizes to persons who have not reached the age of twenty-one.
4. Except for the authority, a retailer shall only sell lottery products on the licensed premises

and not through the mail or by technological means except as the authority may provide or authorize.

5. The retailer may accept payment by cash, check, money order, debit card, or electronic funds transfer. The retailer shall not extend or arrange credit for the purchase of a ticket or share. As used in this subsection, "cash" means United States currency.

6. Nothing in this chapter shall be construed to prohibit the authority from designating certain of its agents and employees to sell or give lottery tickets or shares directly to the public.

7. No elected official's name shall be printed on tickets.

Sec. 84. NEW SECTION. 99G.31 PRIZES.

1. The chief executive officer shall award the designated prize to the ticket or shareholder upon presentation of the winning ticket or confirmation of a winning share. The prize shall be given to only one person; however, a prize shall be divided between holders of winning tickets if there is more than one winning ticket.

2. The authority shall adopt administrative rules, policies, and procedures to establish a system of verifying the validity of tickets or shares claimed to win prizes and to effect payment of such prizes, subject to the following requirements:

a. The prize shall be given to the person who presents a winning ticket. A prize may be given to only one person per winning ticket. However, a prize shall be divided between holders of winning tickets if there is more than one winning ticket. Payment of a prize may be made to the estate of a deceased prize winner or to another person pursuant to an appropriate judicial order issued by an Iowa court of competent jurisdiction.

b. A prize shall not be paid arising from claimed tickets that are stolen, counterfeit, altered, fraudulent, unissued, produced or issued in error, unreadable, not received, or not recorded by the authority within applicable deadlines; lacking in captions that conform and agree with the play symbols as appropriate to the particular lottery game involved; or not in compliance with such additional specific administrative rules, policies, and public or confidential validation and security tests of the authority appropriate to the particular lottery game involved.

c. No particular prize in any lottery game shall be paid more than once, and in the event of a determination that more than one claimant is entitled to a particular prize, the sole remedy of such claimants is the award to each of them of an equal share in the prize.

d. Unclaimed prize money for the prize on a winning ticket or share shall be retained for a period deemed appropriate by the chief executive officer, subject to approval by the board. If a valid claim is not made for the money within the applicable period, the unclaimed prize money shall be added to the pool from which future prizes are to be awarded or used for special prize promotions. Notwithstanding this subsection, the disposition of unclaimed prize money from multijurisdictional games shall be made in accordance with the rules of the multijurisdictional game.

e. No prize shall be paid upon a ticket or share purchased or sold in violation of this chapter. Any such prize shall constitute an unclaimed prize for purposes of this section.

f. The authority is discharged of all liability upon payment of a prize pursuant to this section.

g. No ticket or share issued by the authority shall be purchased by and no prize shall be paid to any member of the board of directors; any officer or employee of the authority; or to any spouse, child, brother, sister, or parent residing as a member of the same household in the principal place of residence of any such person.

h. No ticket or share issued by the authority shall be purchased by and no prize shall be paid to any officer, employee, agent, or subcontractor of any vendor or to any spouse, child, brother, sister, or parent residing as a member of the same household in the principal place of residence of any such person if such officer, employee, agent, or subcontractor has access to confidential information which may compromise the integrity of the lottery.

i. The proceeds of any lottery prize shall be subject to state and federal income tax laws. An amount deducted from the prize for payment of a state tax, pursuant to section 422.16, subsection 1, shall be transferred by the authority to the department of revenue and finance on behalf of the prize winner.

Sec. 85. NEW SECTION. 99G.32 AUTHORITY LEGAL REPRESENTATION.

The authority shall retain the services of legal counsel to advise the authority and the board and to provide representation in legal proceedings. The authority may retain the attorney general or a full-time assistant attorney general in that capacity and provide reimbursement for the cost of advising and representing the board and the authority.

Sec. 86. NEW SECTION. 99G.33 LAW ENFORCEMENT INVESTIGATIONS.

The department of public safety, division of criminal investigation, shall be the primary state agency responsible for investigating criminal violations under this chapter. The chief executive officer shall contract with the department of public safety for investigative services, including the employment of special agents and support personnel, and procurement of necessary equipment to carry out the responsibilities of the division of criminal investigation under the terms of the agreement and this chapter.

Sec. 87. NEW SECTION. 99G.34 OPEN RECORDS — EXCEPTIONS.

The records of the authority shall be governed by the provisions of chapter 22, provided that, in addition to records that may be kept confidential pursuant to section 22.7, the following records shall be kept confidential, unless otherwise ordered by a court, by the lawful custodian of the records, or by another person duly authorized to release such information:

1. Marketing plans, research data, and proprietary intellectual property owned or held by the authority under contractual agreements.
2. Personnel, vendor, and player social security or tax identification numbers.
3. Computer system hardware, software, functional and system specifications, and game play data files.
4. Security records pertaining to investigations and intelligence-sharing information between lottery security officers and those of other lotteries and law enforcement agencies, the security portions or segments of lottery requests for proposals, proposals by vendors to conduct lottery operations, and records of the security division of the authority pertaining to game security data, ticket validation tests, and processes.
5. Player name and address lists, provided that the names and addresses of prize winners shall not be withheld.
6. Operational security measures, systems, or procedures and building plans.
7. Security reports and other information concerning bids or other contractual data, the disclosure of which would impair the efforts of the authority to contract for goods or services on favorable terms.
8. Information that is otherwise confidential obtained pursuant to investigations.

Sec. 88. NEW SECTION. 99G.35 SECURITY.

1. The authority's chief security officer and investigators shall be qualified by training and experience in law enforcement to perform their respective duties in support of the activities of the security office. The chief security officer and investigators shall not have sworn peace officer status. The lottery security office shall perform all of the following activities in support of the authority mission:

- a. Supervise ticket or share validation and lottery drawings, provided that the authority may enter into cooperative agreements with multijurisdictional lottery administrators for shared security services at drawings and game show events involving more than one participating lottery.
- b. Inspect at times determined solely by the authority the facilities of any vendor or lottery retailer in order to determine the integrity of the vendor's product or the operations of the retailer in order to determine whether the vendor or the retailer is in compliance with its contract.
- c. Report any suspected violations of this chapter to the appropriate county attorney or the attorney general and to any law enforcement agencies having jurisdiction over the violation.

- d. Upon request, provide assistance to any county attorney, the attorney general, the department of public safety, or any other law enforcement agency.
 - e. Upon request, provide assistance to retailers in meeting their licensing contract requirements and in detecting retailer employee theft.
 - f. Monitor authority operations for compliance with internal security requirements.
 - g. Provide physical security at the authority's central operations facilities.
 - h. Conduct on-press product production surveillance, testing, and quality approval for printed scratch and pull-tab tickets.
 - i. Coordinate employee and retailer background investigations conducted by the department of public safety, division of criminal investigation.
2. The authority may enter into intelligence-sharing, reciprocal use, or restricted use agreements with the federal government, law enforcement agencies, lottery regulation agencies, and gaming enforcement agencies of other jurisdictions which provide for and regulate the use of information provided and received pursuant to the agreement.
 3. Records, documents, and information in the possession of the authority received pursuant to an intelligence-sharing, reciprocal use, or restricted use agreement entered into by the authority with a federal department or agency, any law enforcement agency, or the lottery regulation or gaming enforcement agency of any jurisdiction shall be considered investigative records of a law enforcement agency and are not subject to chapter 22 and shall not be released under any condition without the permission of the person or agency providing the record or information.

Sec. 89. NEW SECTION. 99G.36 FORGERY — FRAUD — PENALTIES.

1. A person who, with intent to defraud, falsely makes, alters, forges, utters, passes, redeems, or counterfeits a lottery ticket or share or attempts to falsely make, alter, forge, utter, pass, redeem, or counterfeit a lottery ticket or share, or commits theft or attempts to commit theft of a lottery ticket or share, is guilty of a class "D" felony.
2. Any person who influences or attempts to influence the winning of a prize through the use of coercion, fraud, deception, or tampering with lottery equipment or materials shall be guilty of a class "D" felony.
3. No person shall knowingly or intentionally make a material false statement in any application for a license or proposal to conduct lottery activities or make a material false entry in any book or record which is compiled or maintained or submitted to the board pursuant to the provisions of this chapter. Any person who violates the provisions of this section shall be guilty of a class "D" felony.

Sec. 90. NEW SECTION. 99G.37 COMPETITIVE BIDDING.

1. The authority shall enter into a major procurement contract pursuant to competitive bidding. The requirement for competitive bidding does not apply in the case of a single vendor having exclusive rights to offer a particular service or product. The board shall adopt procedures for competitive bidding. Procedures adopted by the board shall be designed to allow the selection of proposals that provide the greatest long-term benefit to the state, the greatest integrity for the authority, and the best service and products for the public.
2. In any bidding process, the authority may administer its own bidding and procurement or may utilize the services of the department of general services, or its successor,²⁶ or other state agency.

Sec. 91. NEW SECTION. 99G.38 AUTHORITY FINANCE — SELF-SUSTAINING.

1. The authority may borrow, or accept and expend, in accordance with the provisions of this chapter, such moneys as may be received from any source, including income from the authority's operations, for effectuating its business purposes, including the payment of the initial expenses of initiation, administration, and operation of the authority and the lottery.
2. The authority shall be self-sustaining and self-funded. Moneys in the general fund of the state shall not be used or obligated to pay the expenses of the authority or prizes of the lottery,

²⁶ See chapter 179, §62, 84 herein

and no claim for the payment of an expense of the lottery or prizes of the lottery may be made against any moneys other than moneys credited to the authority operating account.

3. The state of Iowa offset program, as provided in section 421.17,²⁷ shall be available to the authority to facilitate receipt of funds owed to the authority.

Sec. 92. NEW SECTION. 99G.39 ALLOCATION, APPROPRIATION, TRANSFER, AND REPORTING OF FUNDS.

1. Upon receipt of any revenue, the chief executive officer shall deposit the moneys in the lottery fund created pursuant to section 99G.40. At least fifty percent of the projected annual revenue accruing from the sale of tickets or shares shall be allocated for payment of prizes to the holders of winning tickets. After the payment of prizes, the following shall be deducted from the authority's revenue prior to disbursement:

a. An amount equal to three-tenths of one percent of the gross lottery revenue for the year shall be deposited in a gambling treatment fund in the office of the treasurer of state.

b. The expenses of conducting the lottery. Expenses for advertising production and media purchases shall not exceed four percent of the authority's gross revenue for the year.

2. The director of management shall not include lottery revenues in the director's fiscal year revenue estimates.

3. a. Notwithstanding subsection 1, if gaming revenues under sections 99D.17 and 99F.11 are insufficient in a fiscal year to meet the total amount of such revenues directed to be deposited in the vision Iowa fund and the school infrastructure fund during the fiscal year pursuant to section 8.57, subsection 5, paragraph "e", the difference shall be paid from lottery revenues prior to deposit of the lottery revenues in the general fund. If lottery revenues are insufficient during the fiscal year to pay the difference, the remaining difference shall be paid from lottery revenues in subsequent fiscal years as such revenues become available.

b. The treasurer of state shall, each quarter, prepare an estimate of the gaming revenues and lottery revenues that will become available during the remainder of the appropriate fiscal year for the purposes described in paragraph "a". The department of management and the department of revenue and finance shall take appropriate actions to provide that the amount of gaming revenues and lottery revenues that will be available during the remainder of the appropriate fiscal year is sufficient to cover any anticipated deficiencies.

Sec. 93. NEW SECTION. 99G.40 AUDITS AND REPORTS — LOTTERY FUND.

1. To ensure the financial integrity of the lottery, the authority shall do all of the following:

a. Submit quarterly and annual reports to the governor, state auditor, and the general assembly disclosing the total lottery revenues, prize disbursements, and other expenses of the authority during the reporting period. The fourth quarter report shall be included in the annual report made pursuant to this section. The annual report shall include a complete statement of lottery revenues, prize disbursements, and other expenses, and recommendations for changes in the law that the chief executive officer deems necessary or desirable. The annual report shall be submitted within one hundred twenty days after the close of the fiscal year. The chief executive officer shall report immediately to the governor, the treasurer of state, and the general assembly any matters that require immediate changes in the law in order to prevent abuses or evasions of this chapter or rules adopted or to rectify undesirable conditions in connection with the administration or operation of the lottery.

b. Maintain weekly or more frequent records of lottery transactions, including the distribution of tickets or shares to retailers, revenues received, claims for prizes, prizes paid, prizes forfeited, and other financial transactions of the authority.

c. The authority shall deposit in the lottery fund created in subsection 2 any moneys received by retailers from the sale of tickets or shares less the amount of any compensation due the retailers. The chief executive officer may require licensees to file with the authority reports of receipts and transactions in the sale of tickets or shares. The reports shall be in the form and contain the information the chief executive officer requires.

2. A lottery fund is created in the office of the treasurer of state and shall exist as the recipi-

²⁷ See chapter 179, §63, 84 herein

ent fund for authority receipts. The fund consists of all revenues received from the sale of lottery tickets or shares and all other moneys lawfully credited or transferred to the fund. The chief executive officer shall certify quarterly that portion of the fund that has been transferred to the general fund of the state under this chapter and shall cause that portion to be transferred to the general fund of the state. However, upon the request of the chief executive officer and subject to the approval by the treasurer of state, an amount sufficient to cover the foreseeable administrative expenses of the lottery for a period of twenty-one days may be retained from the lottery fund. Prior to the quarterly transfer to the general fund of the state, the chief executive officer may direct that lottery revenue shall be deposited in the lottery fund and in interest-bearing accounts designated by the treasurer of state. Interest or earnings paid on the deposits or investments is considered lottery revenue and shall be transferred to the general fund of the state in the same manner as other lottery revenue.

3. The chief executive officer shall certify before the last day of the month following each quarter that portion of the lottery fund resulting from the previous quarter's sales to be transferred to the general fund of the state.

4. For informational purposes only, the chief executive officer shall submit to the department of management by October 1 of each year a proposed operating budget for the authority for the succeeding fiscal year. This budget proposal shall also be accompanied by an estimate of the net proceeds to be deposited into the general fund during the succeeding fiscal year. This budget shall be on forms prescribed by the department of management.

5. The authority shall adopt the same fiscal year as that used by state government and shall be audited annually.²⁸

Sec. 94. NEW SECTION. 99G.41 PRIZE OFFSETS — GARNISHMENTS.

1. Any claimant agency may submit to the authority a list of the names of all persons indebted to such claimant agency or to persons on whose behalf the claimant agency is acting. The full amount of the debt shall be collectable from any lottery winnings due the debtor without regard to limitations on the amounts that may be collectable in increments through garnishment or other proceedings. Such list shall constitute a valid lien upon and claim of lien against the lottery winnings of any debtor named in such list. The list shall contain the names of the debtors, their social security numbers if available, and any other information that assists the authority in identifying the debtors named in the list.

2. The authority is authorized and directed to withhold any winnings paid out directly by the authority subject to the lien created by this section and send notice to the winner. However, if the winner appears and claims winnings in person, the authority shall notify the winner at that time by hand delivery of such action. The authority shall pay the funds over to the agency administering the offset program.

3. Notwithstanding the provisions of section 99G.34 which prohibit disclosure by the authority of certain portions of the contents of prize winner records or information, and notwithstanding any other confidentiality statute, the authority may provide to a claimant agency all information necessary to accomplish and effectuate the intent of this section.

4. The information obtained by a claimant agency from the authority in accordance with this section shall retain its confidentiality and shall only be used by a claimant agency in the pursuit of its debt collection duties and practices. Any employee or prior employee of any claimant agency who unlawfully discloses any such information for any other purpose, except as otherwise specifically authorized by law, shall be subject to the same penalties specified by law for unauthorized disclosure of confidential information by an agent or employee of the authority.

5. Except as otherwise provided in this chapter, attachments, garnishments, or executions authorized and issued pursuant to law shall be withheld if timely served upon the authority.

6. The provisions of this section shall only apply to prizes paid directly by the authority and shall not apply to any retailers authorized by the board to pay prizes of up to six hundred dollars after deducting the price of the ticket or share.

²⁸ See chapter 179, §109 herein

Sec. 95. NEW SECTION. 99G.42 COMPULSIVE GAMBLERS — PRINTING ON TICKETS — INFORMATION AT RETAIL OUTLETS.

The authority shall cooperate with the gambling treatment program administered by the Iowa department of public health to incorporate information regarding the gambling treatment program and its toll-free telephone number in printed materials distributed by the authority.

Sec. 96. Section 7E.5, subsection 1, paragraph d, Code 2003, is amended to read as follows:

d. The department of revenue and finance, created in section 421.2, which has primary responsibility for revenue collection and revenue law compliance, and financial management and assistance, ~~and the Iowa lottery.~~

Sec. 97. Section 7E.6, subsection 3, Code 2003, is amended to read as follows:

3. Any position of membership on the ~~lottery board~~ of the Iowa lottery authority shall receive compensation of fifty dollars per day and expenses.

Sec. 98. Section 8.22A, subsection 5, paragraph a, Code 2003, is amended to read as follows:

a. The amount of lottery revenues for the following fiscal year to be available for disbursement following the deductions made pursuant to section ~~99E.10~~ 99G.39, subsection 1.

Sec. 99. Section 8.57, subsection 5, paragraph e, unnumbered paragraph 2, Code 2003, is amended to read as follows:

If the total amount of moneys directed to be deposited in the general fund of the state under sections 99D.17 and 99F.11 in a fiscal year is less than the total amount of moneys directed to be deposited in the vision Iowa fund and the school infrastructure fund in the fiscal year pursuant to this paragraph “e”, the difference shall be paid from lottery revenues in the manner provided in section ~~99E.10~~ 99G.39, subsection 3.

Sec. 100. Section 68B.35, subsection 2, paragraph e, Code 2003, is amended to read as follows:

e. Members of the banking board, the ethics and campaign disclosure board, the credit union review board, the economic development board, the employment appeal board, the environmental protection commission, the health facilities council, the Iowa finance authority, the Iowa public employees’ retirement system investment board, the ~~lottery board~~ of the Iowa lottery authority, the natural resource commission, the board of parole, the petroleum underground storage tank fund board, the public employment relations board, the state racing and gaming commission, the state board of regents, the tax review board, the transportation commission, the office of consumer advocate, the utilities board, the Iowa telecommunications and technology commission, and any full-time members of other boards and commissions as defined under section 7E.4 who receive an annual salary for their service on the board or commission.

Sec. 101. Section 99A.10, Code 2003, is amended to read as follows:

99A.10 MANUFACTURE AND DISTRIBUTION OF GAMBLING DEVICES PERMITTED.

A person may manufacture or act as a distributor for gambling devices for sale out of the state in another jurisdiction where possession of the device is legal or for sale in the state or use in the state if the use is permitted pursuant to either chapter 99B or chapter ~~99E~~ 99G.

Sec. 102. Section 99B.1, subsection 17, Code 2003, is amended to read as follows:

17. “Merchandise” includes lottery tickets or shares sold or authorized under chapter ~~99E~~ 99G. The value of the ticket or share is the price of the ticket or share as established by the lottery division of the department of revenue and finance pursuant to chapter ~~99E~~ 99G.

Sec. 103. Section 99B.6, subsection 5, Code 2003, is amended to read as follows:

5. Lottery tickets or shares authorized pursuant to chapter ~~99E~~ 99G may be sold on the premises of an establishment that serves or sells alcoholic beverages, wine, or beer as defined in section 123.3.

Sec. 104. Section 99B.7, subsection 1, paragraph 1, subparagraph (1), Code 2003, is amended to read as follows:

(1) No other gambling is engaged in at the same location, except that lottery tickets or shares issued by the lottery division of the department of revenue and finance²⁹ may be sold pursuant to chapter ~~99E~~ 99G.

Sec. 105. Section 99B.15, Code 2003, is amended to read as follows:

99B.15 APPLICABILITY OF CHAPTER — PENALTY.

It is the intent and purpose of this chapter to authorize gambling in this state only to the extent specifically permitted by a section of this chapter or chapter 99D, ~~99E~~, or 99F, or 99G. Except as otherwise provided in this chapter, the knowing failure of any person to comply with the limitations imposed by this chapter constitutes unlawful gambling, a serious misdemeanor.

Sec. 106. Section 99F.2, Code 2003, is amended to read as follows:

99F.2 SCOPE OF PROVISIONS.

This chapter does not apply to the pari-mutuel system of wagering used or intended to be used in connection with the horse-race or dog-race meetings as authorized under chapter 99D, lottery or lotto games authorized under chapter ~~99E~~ 99G, or bingo or games of skill or chance authorized under chapter 99B.

Sec. 107. Section 99F.11, subsection 3, Code 2003, is amended to read as follows:

3. Three-tenths of one percent of the adjusted gross receipts shall be deposited in the gambling treatment fund specified in section ~~99E.10~~ 99G.39, subsection 1, paragraph “a”.

Sec. 108. Section 123.49, subsection 2, paragraph a, Code 2003, is amended to read as follows:

a. Knowingly permit any gambling, except in accordance with chapter 99B, 99D, ~~99E~~, or 99F, or 99G, or knowingly permit solicitation for immoral purposes, or immoral or disorderly conduct on the premises covered by the license or permit.

Sec. 109. Section 321.19, subsection 1, unnumbered paragraph 2, Code 2003, is amended to read as follows:

The department shall furnish, on application, free of charge, distinguishing plates for vehicles thus exempted, which plates except plates on Iowa state patrol vehicles shall bear the word “official” and the department shall keep a separate record. Registration plates issued for Iowa state patrol vehicles, except unmarked patrol vehicles, shall bear two red stars on a yellow background, one before and one following the registration number on the plate, which registration number shall be the officer’s badge number. Registration plates issued for county sheriff’s patrol vehicles shall display one seven-pointed gold star followed by the letter “S” and the call number of the vehicle. However, the director of general services or the director of transportation may order the issuance of regular registration plates for any exempted vehicle used by peace officers in the enforcement of the law, persons enforcing chapter 124 and other laws relating to controlled substances, persons in the department of justice, the alcoholic beverages division of the department of commerce, disease investigators of the Iowa department of public health, the department of inspections and appeals, and the department of revenue and finance, who are regularly assigned to conduct investigations which cannot reasonably be conducted with a vehicle displaying “official” state registration plates, persons in the Iowa

²⁹ See 2003 Iowa Acts, First Extraordinary Session, chapter 2, §38 herein

lottery division of the department of revenue and finance authority whose regularly assigned duties relating to security or the carrying of lottery tickets cannot reasonably be conducted with a vehicle displaying "official" registration plates, and persons in the department of economic development who are regularly assigned duties relating to existing industry expansion or business attraction. For purposes of sale of exempted vehicles, the exempted governmental body, upon the sale of the exempted vehicle, may issue for in-transit purposes a pasteboard card bearing the words "Vehicle in Transit", the name of the official body from which the vehicle was purchased, together with the date of the purchase plainly marked in at least one-inch letters, and other information required by the department. The in-transit card is valid for use only within forty-eight hours after the purchase date as indicated on the bill of sale which shall be carried by the driver.

Sec. 110. Section 421.17, subsection 27, Code 2003, is amended by striking the subsection.

Sec. 111. Section 422.16, subsection 1, unnumbered paragraph 4, Code 2003, is amended to read as follows:

For the purposes of this subsection, state income tax shall be withheld on winnings in excess of six hundred dollars derived from gambling activities authorized under chapter 99B or ~~99E~~ 99G. State income tax shall be withheld on winnings in excess of one thousand dollars from gambling activities authorized under chapter 99D. State income tax shall be withheld on winnings in excess of twelve hundred dollars derived from slot machines authorized under chapter 99F.

Sec. 112. Section 422.43, subsection 2, Code 2003, is amended to read as follows:

2. There is imposed a tax of five percent upon the gross receipts derived from the operation of all forms of amusement devices and games of skill, games of chance, raffles, and bingo games as defined in chapter 99B, operated or conducted within the state, the tax to be collected from the operator in the same manner as for the collection of taxes upon the gross receipts of tickets or admission as provided in this section. ~~The tax shall also be imposed upon the gross receipts derived from the sale of lottery tickets or shares pursuant to chapter 99E. The tax on the lottery tickets or shares shall be included in the sales price and distributed to the general fund as provided in section 99E.10.~~

Sec. 113. Section 422B.8, unnumbered paragraph 1, Code 2003, is amended to read as follows:

A local sales and services tax at the rate of not more than one percent may be imposed by a county on the gross receipts taxed by the state under chapter 422, division IV. A local sales and services tax shall be imposed on the same basis as the state sales and services tax or in the case of the use of natural gas, natural gas service, electricity, or electric service on the same basis as the state use tax and shall not be imposed on the sale of any property or on any service not taxed by the state, except the tax shall not be imposed on the gross receipts from the sale of motor fuel or special fuel as defined in chapter 452A which is consumed for highway use or in watercraft or aircraft if the fuel tax is paid on the transaction and a refund has not or will not be allowed, on the gross receipts from the rental of rooms, apartments, or sleeping quarters which are taxed under chapter 422A during the period the hotel and motel tax is imposed, on the gross receipts from the sale of equipment by the state department of transportation, on the gross receipts from the sale of self-propelled building equipment, pile drivers, motorized scaffolding, or attachments customarily drawn or attached to self-propelled building equipment, pile drivers, and motorized scaffolding, including auxiliary attachments which improve the performance, safety, operation, or efficiency of the equipment and replacement parts and are directly and primarily used by contractors, subcontractors, and builders for new construction, reconstruction, alterations, expansion, or remodeling of real property or structures, and on the gross receipts from the sale of a lottery ticket or share in a lottery game conducted pursuant

to chapter ~~99E~~ 99G and except the tax shall not be imposed on the gross receipts from the sale or use of natural gas, natural gas service, electricity, or electric service in a city or county where the gross receipts from the sale of natural gas or electric energy are subject to a franchise fee or user fee during the period the franchise or user fee is imposed. A local sales and services tax is applicable to transactions within those incorporated and unincorporated areas of the county where it is imposed and shall be collected by all persons required to collect state gross receipts taxes. However, a person required to collect state retail sales tax under chapter 422, division IV, is not required to collect local sales and services tax on transactions delivered within the area where the local sales and services tax is imposed unless the person has physical presence in that taxing area. All cities contiguous to each other shall be treated as part of one incorporated area and the tax would be imposed in each of those contiguous cities only if the majority of those voting in the total area covered by the contiguous cities favor its imposition.

Sec. 114. Section 422E.3, subsection 2, Code 2003, is amended to read as follows:

2. The tax shall be imposed on the same basis as the state sales and services tax or in the case of the use of natural gas, natural gas service, electricity, or electric service on the same basis as the state use tax and shall not be imposed on the sale of any property or on any service not taxed by the state, except the tax shall not be imposed on the gross receipts from the sale of motor fuel or special fuel as defined in chapter 452A which is consumed for highway use or in watercraft or aircraft if the fuel tax is paid on the transaction and a refund has not or will not be allowed, on the gross receipts from the rental of rooms, apartments, or sleeping quarters which are taxed under chapter 422A during the period the hotel and motel tax is imposed, on the gross receipts from the sale of equipment by the state department of transportation, on the gross receipts from the sale of self-propelled building equipment, pile drivers, motorized scaffolding, or attachments customarily drawn or attached to self-propelled building equipment, pile drivers, and motorized scaffolding, including auxiliary attachments which improve the performance, safety, operation, or efficiency of the equipment, and replacement parts and are directly and primarily used by contractors, subcontractors, and builders for new construction, reconstruction, alterations, expansion, or remodeling of real property or structures, and on the gross receipts from the sale of a lottery ticket or share in a lottery game conducted pursuant to chapter ~~99E~~ 99G and except the tax shall not be imposed on the gross receipts from the sale or use of natural gas, natural gas service, electricity, or electric service in a city or county where the gross receipts from the sale of natural gas or electric energy are subject to a franchise fee or user fee during the period the franchise or user fee is imposed.

Sec. 115. Section 537A.4, unnumbered paragraph 2, Code 2003, is amended to read as follows:

This section does not apply to a contract for the operation of or for the sale or rental of equipment for games of skill or games of chance, if both the contract and the games are in compliance with chapter 99B. This section does not apply to wagering under the pari-mutuel method of wagering authorized by chapter 99D. This section does not apply to the sale, purchase or redemption of a ticket or share in the state lottery in compliance with chapter ~~99E~~ 99G. This section does not apply to wagering under the excursion boat gambling method of wagering authorized by chapter 99F. This section does not apply to the sale, purchase, or redemption of any ticket or similar gambling device legally purchased in Indian lands within this state.

Sec. 116. Section 714B.10, subsection 1, Code 2003, is amended to read as follows:

1. Advertising by sponsors registered pursuant to chapter 557B, licensed pursuant to chapter 99B, or regulated pursuant to chapter 99D, ~~99E, or 99F, or 99G.~~

Sec. 117. Section 725.9, subsection 5, Code 2003, is amended to read as follows:

5. This chapter does not prohibit the possession of gambling devices by a manufacturer or distributor if the possession is solely for sale out of the state in another jurisdiction where

possession of the device is legal or for sale in the state or use in the state if the use is licensed pursuant to either chapter 99B or chapter ~~99E~~ 99G.

Sec. 118. Section 725.15, Code 2003, is amended to read as follows:

725.15 EXCEPTIONS FOR LEGAL GAMBLING.

Sections 725.5 to 725.10 and 725.12 do not apply to a game, activity, ticket, or device when lawfully possessed, used, conducted, or participated in pursuant to chapter 99B, ~~99E~~, or 99F, or 99G.

Sec. 119. Chapter 99E, Code 2003, is repealed.

Sec. 120. IOWA LOTTERY AUTHORITY — TRANSITION PROVISIONS.

1. For purposes of this section, unless the context otherwise requires:

a. "Iowa lottery authority" means the Iowa lottery authority as created in this Act pursuant to chapter 99G.

b. "Iowa lottery board" means the five-member board established pursuant to 1985 Iowa Acts, chapter 33, section 105.

c. "Lottery division" means the lottery division of the department of revenue and finance established pursuant to 1985 Iowa Acts, chapter 33, section 103.

2. The Iowa lottery authority shall be the legal successor to the lottery division and, as such, shall assume all rights, privileges, obligations, and responsibilities of the lottery division. The promulgated rules of the lottery division shall remain in full force and effect as the rules of the authority until amended or repealed by the authority. In addition, the Iowa lottery authority may continue the security practices and procedures utilized by the lottery division until amended or repealed by the authority.

3. The Iowa lottery authority is created effective at 12:01 a.m. on September 1, 2003, upon which date and time the authority shall become the legal successor to the lottery division. Until the aforesaid date and time, no business shall be conducted by the authority on behalf of the lottery, provided, however, that the Iowa lottery commissioner and Iowa lottery board shall implement such measures as are appropriate to ensure a smooth transition from the agency to the Iowa lottery authority as of the effective date of succession.

4. Notwithstanding any provision of chapter 99G, as created by this Act, to the contrary, the commissioner of the Iowa lottery established pursuant to 1985 Iowa Acts, chapter 33, section 103, as amended by 1986 Iowa Acts, chapter 1245, section 404, shall serve as the initial chief executive officer of the Iowa lottery authority. In addition, notwithstanding any provision of section 99G.9, as created by this Act, to the contrary, the term of office for the chief executive officer of the Iowa lottery authority as of September 1, 2003, shall end April 30, 2008.

5. Notwithstanding any provision of chapter 99G, as created by this Act, to the contrary, the initial board of directors of the Iowa lottery authority shall consist of the duly appointed and confirmed members of the Iowa lottery board serving at the date of succession. Said board members shall serve as members of the Iowa lottery authority's board of directors throughout the remainder of their respective Iowa lottery board terms, subject to earlier resignation or removal from office for cause as provided by this Act.

6. Personnel of the lottery division employed on September 1, 2003, shall transition to the Iowa lottery authority as the initial authority employees.

7. Whereas the lottery division was authorized only as a self-funded enterprise and except for an initial appropriation for start-up expenses, funds of the state have not been authorized for use or obligation to pay the expenses or prizes of the lottery division. The Iowa lottery authority shall function as the legal successor to the lottery division and shall assume all of the assets and obligations of the lottery division, and funds of the state shall not be used or obligated to pay the expenses or prizes of the authority or its predecessor, the lottery division.

8. In order to effect an immediate and efficient transition of the lottery from the lottery

division to the Iowa lottery authority, as soon as practicable, the Iowa lottery authority shall do all of the following:

a. Take such steps and enter into such agreements as the board of the Iowa lottery authority may determine are necessary and proper in order to effect the transfer, assignment, and delivery to the authority from the state of all the tangible and intangible assets constituting the lottery, including the exclusive right to operate the lottery and the assignment to and assumption by the authority of all agreements, covenants, and obligations of the lottery division and other agencies of the state, relating to the operation and management of the lottery.

b. Receive as transferee from the state of Iowa all of the tangible and intangible assets constituting the lottery including, without limitation, the exclusive authorization to operate a lottery in the state of Iowa and ownership of annuities and bonds purchased prior to the date of transfer and held in the name of the Iowa lottery for payment of lottery prizes, and shall assume and discharge all of the agreements, covenants, and obligations of the lottery division entered into and constituting part of the operation and management of the lottery. In consideration for such transfer and assumption, the Iowa lottery authority shall transfer to the state all net profits of the authority, at such times and subject to such financial transfer requirements as are provided in this Act.

c. Have perpetual succession as an instrumentality of the state and a public authority.

9. Notwithstanding any provision of chapter 99G, as created by this Act, to the contrary, the following provisions shall apply to the Iowa lottery authority:

a. Moneys appropriated from the lottery fund to the department of revenue and finance, for administration of the lottery for the fiscal year beginning July 1, 2003, and unexpended prior to September 1, 2003, shall be appropriated to the Iowa lottery authority for operation of the lottery.

b. Of the moneys collected by the lottery division and Iowa lottery authority for the fiscal year beginning July 1, 2003, fifty-four million eight hundred thousand dollars shall be transferred to the general fund of the state.

c. Any authority for establishing the budget of the Iowa lottery authority pursuant to chapter 99G, as created by this Act, shall only apply for the fiscal year beginning July 1, 2004, and each succeeding fiscal year.

Sec. 121. EFFECTIVE DATE. This division of this Act, creating the Iowa lottery authority, takes effect September 1, 2003.³⁰

Approved May 30, 2003, with exceptions noted.

THOMAS J. VILSACK, *Governor*

Dear Mr. Secretary:

I hereby transmit Senate File 453, an Act relating to state and local government financial and regulatory matters, making and reducing appropriations, providing a fee, increasing civil penalties, and providing applicability and effective dates.

I hereby approve Senate File 453 on this date with the following exceptions, which I hereby disapprove.

I am unable to approve the designated portions of Section 31, subsection 1. These items deal with the allocation of the reduction in appropriations to the three Regent universities. It is important that the Board of Regents have complete flexibility in making these reductions across their appropriations.

I am unable to approve the item designated as Section 31, subsection 2. This subsection sets up a legislative interim committee study on a policy option of levying charges for capital assets

³⁰ See chapter 179, §142 herein

against all state agencies. I have previously stated that I do not support this idea and, therefore, do not support the study.

I am unable to approve the item designated as Section 38 in its entirety. This section requires the Department of Education to establish a task force to conduct several studies regarding the structure, funding of area education agencies and the delivery of media services, educational services, and special education services. The section also requires a study of special education, including identification and remediation procedures, the early intervention block grant program, intensive instruction and tutoring, and reading instruction.

These studies would duplicate work already completed and are unnecessary. Thanks to the cooperative efforts of area education agencies, school districts, and the department of education, studies have already been undertaken and recommendations for improvement have been implemented. In addition an accreditation process has been established improving accountability and the efficient and quality services. One-third of the AEAs are in the process of merging next year and this will create additional efficiencies. I agree that resources needed for special education requires special attention and thus I am recommending that the department of education establish a task force to review special education finance.

At the beginning of this legislative session, it was clear that although our fiscal difficulties were not as severe as many other states, Iowa was facing a budget shortfall. Given that the budget must be balanced, we know that those tasked with the responsibility of balancing the budget would inevitably reduce aid to local government. We worked with legislative leaders to make sure that the reforms included in Senate File 453 would give real hope to Iowans that some services can be improved even as less money is spent.

Additionally, my office worked hard to ensure that the federal stimulus package included direct fiscal relief for states and cities to help lessen the burden imposed by Senate File 453. While the federal stimulus package passed last week included \$189 million in aid to Iowa, the Legislature has indicated it will not direct any of those vital dollars to cities and counties.

For the above reasons, I respectfully disapprove these items in accordance with Amendment IV of the Amendments of 1968 to the Constitution of the State of Iowa. All other items in Senate File 453 are hereby approved as of this date.

Sincerely,
THOMAS J. VILSACK, *Governor*