

CHAPTER 19

SUBSTANTIVE CODE CORRECTIONS

H.F. 227

AN ACT relating to statutory corrections which may adjust language to reflect current practices, insert earlier omissions, delete redundancies and inaccuracies, delete temporary language, resolve inconsistencies and conflicts, update ongoing provisions, or remove ambiguities, and including effective and retroactive applicability date provisions.

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

Section 1. Section 2B.5, subsection 3, Code 2005, is amended to read as follows:

3. Cause to be published annually a correct list of state officers and deputies; members of boards and commissions; justices of the supreme court, judges of the court of appeals, and judges of the district courts including district associate judges and judicial magistrates; and members of the general assembly. ~~The offices office of the governor and secretary of state shall cooperate in the preparation of the list.~~

Sec. 2. Section 2B.12, subsection 8, Code 2005, is amended to read as follows:

8. A Code or Code Supplement may include appropriate tables showing the disposition of Acts of the general assembly, the corresponding sections from edition to edition of a Code or Code Supplement, and other reference material as determined by the Iowa Code editor in accordance with policies of the legislative council.

Sec. 3. Section 2B.17, subsection 2, Code 2005, is amended to read as follows:

2. The Acts of each general assembly shall be known as "Acts of the . . . General Assembly, . . . Session, Chapter (or File No.) . . . , Section" (inserting the appropriate numbers) and shall be cited as ". . . Iowa Acts, chapter (or File No.). . . , section" (inserting the appropriate year, chapter or file number, and section number).

Sec. 4. Section 2C.13, Code 2005, is amended to read as follows:

2C.13 NO INVESTIGATION — NOTICE TO COMPLAINANT.

If the citizens' aide decides not to investigate, the complainant shall be informed of the reasons for the decision. If the citizens' aide decides to investigate, the complainant and the agency shall be notified of the decision. After completing consideration of a complaint, whether or not it has been investigated, the citizens' aide shall without delay inform the complainant of the fact, and if appropriate, shall inform the ~~administrative~~ agency involved. The citizens' aide shall on request of the complainant, and as appropriate, report the status of the investigation to the complainant.

Sec. 5. Section 2C.14, Code 2005, is amended to read as follows:

2C.14 INSTITUTIONALIZED COMPLAINANTS.

A letter to the citizens' aide from a person in a correctional institution, a hospital, or other institution under the control of an ~~administrative~~ agency shall be immediately forwarded, unopened to the citizens' aide by the institution where the writer of the letter is a resident. A letter from the citizens' aide to such a person shall be immediately delivered, unopened to the person.

Sec. 6. Section 2C.17, unnumbered paragraph 1, Code 2005, is amended to read as follows:

The citizens' aide may publish the conclusions, recommendations, and suggestions and transmit them to the governor, or the general assembly or any of its committees. When publishing an opinion adverse to an ~~administrative~~ agency or official the citizens' aide shall, unless excused by the agency or official affected, include with the opinion any unedited reply made by the agency.

Sec. 7. Section 3.3, Code 2005, is amended to read as follows:

3.3 HEADNOTES AND HISTORICAL REFERENCES.

Proper headnotes may be placed at the beginning of a section of a bill or a Code section, and at the end of ~~the a Code~~ section there may be placed a reference to the section number of the Code, or any Iowa Act from which the matter of the bill Code section was taken, ~~but. However,~~ except as provided in the uniform commercial code, section 554.1109, neither said headnotes nor said historical references shall be considered as a part of the law as enacted.

Sec. 8. Section 7A.27, unnumbered paragraph 2, Code 2005, is amended to read as follows:

When such publications, ~~except supplements to the Iowa administrative code,~~ paid for by public funds furnished by the state, contain reprints of statutes or rules, or both, they shall be sold and distributed at cost by the department ordering the publication if the cost per publication is one dollar or more, unless a central library or depository is established. Such publications shall be obtained from the director of the department of administrative services on requisition by the department ordering the publication, and the selling price, if any, shall be determined by the director of the department of administrative services by dividing the total cost of printing, paper, distribution, and binding by the number printed. The price shall be set at the nearest multiple of ten to the quotient thus obtained. Distribution of such publications shall be made by the director gratis to public officers, purchasers of licenses from state departments required by statute, and departments. Funds from the sale of such publications shall be deposited monthly in the general fund of the state except the cost of distribution shall be deposited in the printing revolving fund established in section 8A.345. This section does not apply to the printed versions of the official legal publications listed in section 2A.5.

Sec. 9. Section 8A.205, subsection 2, paragraph a, Code 2005, is amended to read as follows:

a. Establish standards, consistent with other state law, for the implementation of electronic commerce, including standards for ~~digital~~ electronic signatures, electronic currency, and other items associated with electronic commerce.

Sec. 10. Section 8A.316, subsection 1, Code 2005, is amended to read as follows:

1. ~~Revise~~ Develop its procedures and specifications for the purchase of lubricating oil and industrial oil to eliminate exclusion of recycled oils and any requirement that oils be manufactured from virgin materials.

Sec. 11. Section 9E.12, subsection 4, Code 2005, is amended to read as follows:

4. A certificate of a notarial act on an instrument to be recorded must also comply with the requirements of section ~~331.602, subsection 1~~ 331.606B.

Sec. 12. Section 12.82, subsection 4, paragraph d, Code 2005, is amended to read as follows:

d. To assure the continued solvency of any bonds secured by the bond reserve fund, provision is made in paragraph ~~"a"~~ "c" for the accumulation in each bond reserve fund of an amount equal to the bond reserve fund requirement for the fund. In order further to assure maintenance of the bond reserve funds, the treasurer shall, on or before January 1 of each calendar year, make and deliver to the governor the treasurer's certificate stating the sum, if any, required to restore each bond reserve fund to the bond reserve fund requirement for that fund. Within thirty days after the beginning of the session of the general assembly next following the delivery of the certificate, the governor shall submit to both houses printed copies of a budget including the sum, if any, required to restore each bond reserve fund to the bond reserve fund requirement for that fund. Any sums appropriated by the general assembly and paid to the treasurer pursuant to this subsection shall be deposited by the treasurer in the applicable bond reserve fund.

Sec. 13. Section 13B.9, subsection 2, Code 2005, is amended to read as follows:

2. An attorney appointed under this section is not liable to a person represented by the attorney for damages as a result of a conviction in a criminal case unless the court determines in a postconviction proceeding or on direct appeal that the person's conviction resulted from ineffective assistance of counsel, and the ineffective assistance of counsel is the proximate cause of the damage. In juvenile or civil proceedings, an attorney appointed under this section is not liable to a person represented by the attorney for damages unless it has been determined that the attorney has provided ineffective assistance of counsel and the ineffective assistance of counsel ~~claim~~ is the proximate cause of the damage.

Sec. 14. Section 15.331C, Code 2005, is amended to read as follows:

15.331C CORPORATE TAX CREDIT FOR CERTAIN SALES TAXES PAID BY THIRD-PARTY DEVELOPER.

1. An eligible business or a supporting business may claim a corporate tax credit in an amount equal to the sales and use taxes paid by a third-party developer under ~~chapters 422 and chapter 423~~ for gas, electricity, water, or sewer utility services, goods, wares, or merchandise, or on services rendered, furnished, or performed to or for a contractor or subcontractor and used in the fulfillment of a written contract relating to the construction or equipping of a facility within the economic development area of the eligible business or supporting business. Taxes attributable to intangible property and furniture and furnishings shall not be included, but taxes attributable to racks, shelving, and conveyor equipment to be used in a warehouse or distribution center shall be included. Any credit in excess of the tax liability for the tax year may be credited to the tax liability for the following seven years or until depleted, whichever occurs earlier. An eligible business may elect to receive a refund of all or a portion of an unused tax credit.

2. A third-party developer shall state under oath, on forms provided by the department of economic development, the amount of taxes paid as described in subsection 1 and shall submit such forms to the department. The taxes paid shall be itemized to allow identification of the taxes attributable to racks, shelving, and conveyor equipment to be used in a warehouse or distribution center. After receiving the form from the third-party developer, the department shall issue a tax credit certificate to the eligible business or supporting business equal to the sales and use taxes paid by a third-party developer under ~~chapters 422 and chapter 423~~ for gas, electricity, water, or sewer utility services, goods, wares, or merchandise, or on services rendered, furnished, or performed to or for a contractor or subcontractor and used in the fulfillment of a written contract relating to the construction or equipping of a facility. The department shall also issue a tax credit certificate to the eligible business or supporting business equal to the taxes paid and attributable to racks, shelving, and conveyor equipment to be used in a warehouse or distribution center. The aggregate combined total amount of tax refunds under section 15.331A for taxes attributable to racks, shelving, and conveyor equipment to be used in a warehouse or distribution center and of tax credit certificates issued by the department for the taxes paid and attributable to racks, shelving, and conveyor equipment to be used in a warehouse or distribution center shall not exceed five hundred thousand dollars in a fiscal year. If an applicant for a tax credit certificate does not receive a certificate for the taxes paid and attributable to racks, shelving, and conveyor equipment to be used in a warehouse or distribution center, the application shall be considered in succeeding fiscal years. The eligible business or supporting business shall not claim a tax credit under this section unless a tax credit certificate issued by the department of economic development is attached to the taxpayer's tax return for the tax year for which the tax credit is claimed. A tax credit certificate shall contain the eligible business's or supporting business's name, address, tax identification number, the amount of the tax credit, and other information required by the department of revenue.

Sec. 15. Section 22.1, subsection 3, Code 2005, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. "Public records" also includes all records relating to

the investment of public funds including but not limited to investment policies, instructions, trading orders, or contracts, whether in the custody of the public body responsible for the public funds or a fiduciary or other third party.

Sec. 16. Section 22.7, subsection 38, paragraph a, Code 2005, is amended to read as follows:

a. Records containing information that would disclose, or might lead to the disclosure of, private keys used in a ~~digital~~ an electronic signature or other similar technologies as provided in chapter 554D.

Sec. 17. Section 28M.3, unnumbered paragraph 1, Code 2005, is amended to read as follows:

A regional transit district shall have all the rights, powers, and duties of a county enterprise pursuant to sections 331.462 through 331.469 as they relate to the purpose for which the regional transit district is created, including the authority to issue revenue bonds for the establishment, construction, reconstruction, repair, equipping, remodeling, extension, maintenance, and operation of works, vehicles, and facilities of a regional transit district. In addition, a regional transit district, with the approval of the board of supervisors, may issue general obligation bonds as an essential county purpose pursuant to chapter 331, division IV, part 3, for the establishment, construction, reconstruction, repair, equipping, remodeling, extension, maintenance, and operation of works, vehicles, and facilities of a regional transit district. Such general obligation bonds are payable from the property tax levy authorized in section 28M.5.

Sec. 18. Section 48A.11, subsection 8, Code 2005, is amended to read as follows:

8. A voter registration application lacking the registrant's name, sex, date of birth, or residence address or description shall not be processed. A voter registration application lacking the registrant's Iowa driver's license number, Iowa nonoperator's identification card number, or the last four digits of the registrant's social security number shall not be processed. A registrant whose registration is not processed pursuant to this subsection shall be notified pursuant to section 48A.26, subsection 3. A registrant who does not have an Iowa driver's license number, an Iowa nonoperator's identification number, or a social security number and who notifies the registrar of such shall be assigned a unique identifying number that shall serve to identify the registrant for voter registration purposes.

Sec. 19. Section 48A.25A, unnumbered paragraph 1, Code 2005, is amended to read as follows:

Upon receipt of an application for voter registration by mail, the state registrar of voters shall compare the Iowa driver's license number, the Iowa nonoperator's identification card number, or the last four numerals of the social security number provided by the registrant with the records of the state department of transportation. To be verified, the voter registration record shall contain the same name, date of birth, and Iowa driver's license number or Iowa nonoperator's identification card number or whole or partial social security number as the records of the state department of transportation. If the information cannot be verified, the application shall be rejected and the registrant shall be notified of the reason for the rejection. If the information can be verified, a record shall be made of the verification and the application shall be accepted.

Sec. 20. Section 48A.38, subsection 1, paragraph f, Code 2005, is amended to read as follows:

f. The county commissioner of registration and the state registrar of voters shall remove a voter's whole or partial social security number, as applicable, Iowa driver's license number, or Iowa nonoperator's identification card number from a voter registration list prepared pursuant to this section.

Sec. 21. Section 50.20, Code 2005, is amended to read as follows:

50.20 NOTICE OF NUMBER OF PROVISIONAL BALLOTS.

The commissioner shall compile a list of the number of provisional ballots cast under section 49.81 in each precinct. The list shall be made available to the public as soon as possible, but in no case later than nine o'clock a.m. on the second day following the election. Any elector may examine the list during normal office hours, and may also examine the affidavit envelopes bearing the ballots of challenged electors until the reconvening of the special precinct board as required by this chapter. Only those persons so permitted by section 53.23, subsection 4, shall have access to the affidavits while that board is in session. Any elector may present written statements or documents, supporting or opposing the counting of any special provisional ballot, at the commissioner's office until the reconvening of the special precinct board.

Sec. 22. Section 50.22, unnumbered paragraphs 1 through 3, Code 2005, are amended to read as follows:

Upon being reconvened, the special precinct election board shall review the information upon the envelopes bearing the special provisional ballots, and all evidence submitted in support of or opposition to the right of each challenged person to vote in the election. The board may divide itself into panels of not less than three members each in order to hear and determine two or more challenges simultaneously, but each panel shall meet the requirements of section 49.12 as regards political party affiliation of the members of each panel.

The decision to count or reject each ballot shall be made upon the basis of the information given on the envelope containing the special provisional ballot, the evidence concerning the challenge, the registration and the returned receipts of registration.

If a special provisional ballot is rejected, the person casting the ballot shall be notified by the commissioner within ten days of the reason for the rejection, on the form prescribed by the state commissioner pursuant to section 53.25, and the envelope containing the special provisional ballot shall be preserved unopened and disposed of in the same manner as spoiled ballots. The special provisional ballots which are accepted shall be counted in the manner prescribed by section 53.24. The commissioner shall make public the number of special provisional ballots rejected and not counted, at the time of the canvass of the election.

Sec. 23. Section 53.23, subsections 5 and 6, Code 2005, are amended to read as follows:

5. The special precinct election board shall preserve the secrecy of all absentee and special provisional ballots. After the affidavits on the envelopes have been reviewed and the qualifications of the persons casting the ballots have been determined, those that have been accepted for counting shall be opened. The ballots shall be removed from the affidavit envelopes without being unfolded or examined, and then shall be thoroughly intermingled, after which they shall be unfolded and tabulated. If secrecy folders or envelopes are used with special provisional paper ballots, the ballots shall be removed from the secrecy folders after the ballots have been intermingled.

6. The special precinct election board shall not release the results of its tabulation on election day until all of the ballots it is required to count on that day have been counted, nor release the tabulation of challenged provisional ballots accepted and counted under chapter 50 until that count has been completed.

Sec. 24. Section 53.24, Code 2005, is amended to read as follows:

53.24 COUNTIES USING VOTING MACHINES.

In counties which provide the special precinct election board with voting machines, the absentee ballot envelopes shall be opened by the board and the ballots shall, without being unfolded, be thoroughly intermingled, after which they shall be unfolded and, under the personal supervision of precinct election officials of each of the political parties, be registered on voting machines the same as if the absent voter had been present and voted in person, except that a tally of the write-in votes may be kept in the tally list rather than on the machine. When two or more political subdivisions in the county are holding separate elections simultaneously, the

commissioner may arrange the machine so that the absentee and special provisional ballots for more than one election may be recorded on the same machine.

Sec. 25. Section 53.31, unnumbered paragraph 2, Code 2005, is amended to read as follows:

The commissioner shall immediately send a written notice to the elector whose qualifications have been challenged. The notice shall be sent to the address at which the challenged elector is registered to vote. If the ballot was mailed to the challenged elector, the notice shall also be sent to the address to which the ballot was mailed if it is different from the elector's registration address. The notice shall advise the elector of the reason for the challenge, the date and time that the special precinct election board will reconvene to determine challenges, and that the elector has the right to submit written evidence of the elector's qualifications. The notice shall include the telephone number of the commissioner's office. If the commissioner has access to a facsimile machine, the notice shall include the telephone number of the facsimile machine. As far as possible, other procedures for considering special provisional ballots shall be followed.

Sec. 26. Section 85.34, subsection 2, unnumbered paragraph 2, Code 2005, is amended to read as follows:

v. If it is determined that an injury has produced a disability less than that specifically described in ~~said the schedule~~ described in paragraphs "a" through "t", compensation shall be paid during the lesser number of weeks of disability determined, as will not exceed a total amount equal to the same percentage proportion of said scheduled maximum compensation.

Sec. 27. Section 97.51, subsection 1, paragraphs b and c, Code 2005, are amended to read as follows:

b. Under the direction of the department system and as designated by the department system, invest such portion of said trust funds as are not needed for current payment of benefits, in interest-bearing securities issued by the United States, or interest-bearing bonds issued by the state of Iowa, or bonds issued by counties, school districts or general obligations or limited levy bonds issued by municipal corporations in this state as authorized by law; also to sell and dispose of same when needed for the payment of benefits.

c. To disburse the trust funds upon warrants drawn by the director of the department of administrative services pursuant to the order of the Iowa public employees' retirement system created in section 97B.1.

Sec. 28. Section 97.51, subsections 2, 3, 4, and 6, Code 2005, are amended to read as follows:

2. All moneys which are paid or deposited into this fund are hereby appropriated and made available to the department system to be used only for the purposes herein provided:

a. To be used by the department system for the payment of claims for benefits.

b. To be used by the department system for the payment in accordance with any agreement with the federal social security administration of amounts required to obtain retroactive federal social security coverage of Iowa public employees, dating from January 1, 1951, and for the payment of refunds which were authorized by the provisions of section 97.7, Code 1950, and for the payment of such other refunds to employees as may be authorized by the general assembly, and such other purposes as may be authorized by the general assembly.

3. The Iowa public employees' retirement system created in section 97B.1 shall administer the Iowa old-age and survivors' insurance liquidation fund and shall also administer all other provisions of this chapter.

4. Any public employee subject to coverage under the provisions of chapter 97, Code 1950, as amended, in public service as of June 30, 1953, and who has not applied for and qualified for benefit payments under the provisions of chapter 97, Code 1950, as amended, who had con-

tributed to the Iowa old-age and survivors' insurance fund prior to the repeal of said chapter 97, as amended, shall be entitled to a refund of contributions paid into the Iowa old-age and survivors' insurance fund by such employee without interest, but there shall be deducted from the amount of any such refund any amount which has been or will be paid in the employee's behalf as the employee's contribution as an employee to obtain retroactive federal social security coverage. Any former public employee not in public service as of June 30, 1953, who has contributed to the Iowa old-age and survivors' insurance fund, the employee's beneficiaries or estate, when no benefit has been paid under chapter 97, Code 1950, based upon such employee's prior record, shall be entitled to a refund of seventy-five percent of all contributions paid by the employee into said fund, without interest. The ~~department system~~ shall prescribe rules in regard to the granting of such refunds. In the event of such refund any individual receiving the same shall be deemed to have waived any and all rights in behalf of the individual or any beneficiary or the individual's estate to further benefits under the provisions of chapter 97, Code 1950, as amended.

6. In the payment of any benefits in the future, as a result of the provisions of chapter 97, Code 1950, as amended, the ~~department system~~ shall follow the same procedure as provided by said chapter 97, as amended, as though said chapter had not been repealed, except the requirements of section 97.21, subsection 4, paragraph "a", and 97.21, subsection 5, shall not be applicable, but no primary benefit, based upon employment prior to June 30, 1953, shall be paid to any individual for any month during which the individual receives compensation for work in any position which would have been subject to coverage under the provisions of said chapter 97, as amended, if the individual's earnings for such month exceed one hundred dollars, nor shall any benefit be paid to a wife or dependent of such employee for such months, except that after a retired member reaches the age of seventy-two years, the member, the member's wife and dependents shall be entitled to the benefits of this chapter regardless of the amount earned.

Sec. 29. Section 97B.49C, subsection 1, paragraph c, Code 2005, is amended to read as follows:

c. "Eligible service" means membership and prior service as a sheriff ~~and or~~ deputy sheriff under this section. In addition, eligible service includes membership and prior service as a marshal in a city not covered under chapter 400 or a fire fighter or police officer of a city not participating in the retirement systems established in chapter 410 or 411, and as an airport fire fighter prior to July 1, 1994.

Sec. 30. Section 99B.7, subsection 3, paragraph a, Code 2005, is amended to read as follows:

a. A person wishing to conduct games and raffles pursuant to this section as a qualified organization shall submit an application and a license fee of one hundred fifty dollars. The annual license fee for a statewide raffle license shall be one hundred fifty dollars. However, upon submission of an application accompanied by a license fee of fifteen dollars, a person may be issued a limited license to conduct all games and raffles pursuant to this section at a specified location and during a specified period of fourteen consecutive calendar days, except that a bingo occasion may only be conducted once per each seven consecutive calendar days of the specified period. In addition, a qualified organization may be issued a limited license to conduct raffles pursuant to this section for a period of ninety days for a license fee of forty dollars or for a period of one hundred eighty days for a license fee of seventy-five dollars. For the purposes of this paragraph, a limited license is deemed to be issued on the first day of the period for which the license is issued.

Sec. 31. Section 99D.24, subsection 3, Code 2005, is amended to read as follows:

3. A person wagering or accepting a wager at any location outside the ~~betting enclosure wa-~~
gering area is subject to the penalties in section 725.7.

Sec. 32. Section 135.144, subsection 11, Code 2005, is amended to read as follows:

11. If a public health disaster or other public health emergency situation exists which poses an imminent threat to the public health, safety, and welfare, the department, in conjunction with the governor, may provide financial assistance, from funds appropriated to the department that are not otherwise encumbered, to political subdivisions as needed to alleviate the disaster or the emergency. If the department does not have sufficient ~~encumbered~~ unencumbered funds, the governor may request that the executive council, pursuant to the authority of section 7D.29, commit sufficient funds, up to one million dollars, that are not otherwise encumbered from the general fund, as needed and available, for the disaster or the emergency. If additional financial assistance is required in excess of one million dollars, approval by the legislative council is also required.

Sec. 33. Section 136A.5, subsection 3, Code 2005, is amended to read as follows:

3. This section does not apply if ~~the~~ a parent objects to the screening. If a parent objects to the screening of a newborn, the attending health care provider shall document the refusal in the newborn's medical record and shall obtain a written refusal from the parent and report the refusal to the department as provided by rule of the department.

Sec. 34. Section 166.1, subsection 3, Code 2005, is amended to read as follows:

3. "Manufacturer" includes every person engaged in the preparation, at any stage of the process, of biological products, except those engaged in such preparation ~~in the biological laboratory in the Iowa State University of science and technology, or in any other state or governmental institution.~~

Sec. 35. Section 174.15, Code 2005, is amended to read as follows:

174.15 PURCHASE AND MANAGEMENT.

Title to land purchased or received for purposes of conducting a fair event shall be taken in the name of the county or a fair. However, the board of supervisors shall place the land under the control and management of a fair. The fair may act as agent for the county in the erection of buildings, and maintenance of the fairgrounds, including the buildings and improvements constructed on the grounds. Title to new buildings or improvements shall be taken in the name of the county or a fair. However, the county is not liable for the improvements or expenditures for them.

Sec. 36. Section 225C.42, subsection 2, paragraph c, Code 2005, is amended to read as follows:

c. An analysis of the extent to which payments enabled children to remain in their homes. The analysis shall include but is not limited to all of the following items concerning children affected by the payments: the number and percentage of children who remained with their families; the number and percentage of children who returned to their home from an out-of-home placement and the type of placement from which the children returned; and the number of children who received an out-of-home placement during the fiscal year period and the type of placement.

Sec. 37. Section 235A.15, subsection 2, paragraph d, subparagraph (3), Code 2005, is amended to read as follows:

(3) To a court or ~~administrative agency~~ the department hearing an appeal for correction of report data and disposition data as provided in section 235A.19.

Sec. 38. Section 257.11, subsection 4, paragraph c, Code 2005, is amended by striking the paragraph.

Sec. 39. Section 284.12, subsections 2 and 4, Code 2005, are amended to read as follows:

2. The report shall be made available to the chairpersons and ranking members of the senate and house committees on education, ~~the legislative education accountability and oversight~~

committee, the deans of the colleges of education at approved practitioner preparation institutions in this state, the state board, the governor, and school districts by January 1. School districts shall provide information as required by the department for the compilation of the report and for accounting and auditing purposes.

4. In developing administrative rules for consideration by the state board, the department shall consult with persons representing teachers, administrators, school boards, approved practitioner preparation institutions, and other appropriate education stakeholders, ~~and the legislative education accountability and oversight committee.~~

Sec. 40. Section 321.69, subsection 3, Code 2005, is amended to read as follows:

3. The damage disclosure statement shall be provided by the transferor to the transferee at or before the time of sale. If the transferor is not a resident of this state or if the transferee acquired the vehicle by operation of law as provided in section 321.47, the transferee shall not be required to submit a damage disclosure statement from the transferor with the transferee's application for title unless the state of the transferor's residence requires a damage disclosure statement. However, the transferee shall submit a damage disclosure statement with the transferee's application for title indicating whether a salvage, rebuilt, or flood title had ever existed for the vehicle, and, if not, whether the vehicle was damaged to the extent that it was a wrecked or salvage vehicle as defined in section 321.52, subsection 4, paragraph "d", during or prior to the transferor's ownership of the vehicle, and the year, make, and vehicle identification number of the motor vehicle. The transferee shall not be required to indicate whether the vehicle was damaged to the extent that it was a wrecked or salvage vehicle as defined in section 321.52, subsection 4, paragraph "d", under this subsection if the transferor's certificate of title is from another state and if it indicates that the vehicle is salvaged and not rebuilt or is another state's salvage certificate of title.

Sec. 41. Section 321.69, subsection 9, Code 2005, is amended to read as follows:

9. Except for subsections 10 and 11, this section does not apply to motor trucks and truck tractors with a gross vehicle weight rating of sixteen thousand pounds or more, vehicles more than seven model years old, motorcycles, motorized bicycles, and special mobile equipment. This section does apply to motor homes. The requirement in subsection 1 that the new certificate of title and registration receipt shall state on the face of the title whether a prior owner had disclosed that the vehicle was damaged to the extent that it was a wrecked or salvage vehicle as defined in section 321.52, subsection 4, paragraph "d", does not apply to a vehicle with a certificate of title bearing a designation that the vehicle was previously titled on a salvage certificate of title pursuant to section 321.52, subsection 4, paragraph "b", or to a vehicle with a certificate of title bearing a "REBUILT" or "SALVAGE" designation pursuant to section 321.24, subsection 4 or 5. Except for subsections 10 and 11, this section does not apply to new motor vehicles with a true mileage, as defined in section 321.71, of one thousand miles or less, unless such vehicle has incurred damage as defined described in subsection 2.

Sec. 42. Section 322.10, Code 2005, is amended to read as follows:

322.10 JUDICIAL REVIEW.

Judicial review of actions of the department may be sought in accordance with the terms of the Iowa administrative procedure Act, chapter 17A. The petitioner shall file with the clerk a bond for the use of the respondent, with sureties approved by ~~such the~~ clerk and in an amount fixed by the clerk, ~~provided in. In~~ no case shall the bond be less than fifty dollars, ~~conditioned. All bonds shall include the condition~~ that the petitioner shall perform the orders of the court.

Sec. 43. Section 331.260, subsection 2, unnumbered paragraph 2, Code 2005, is amended to read as follows:

The question of forming a community commonwealth shall be submitted to the electorate in substantially the same ~~manner~~ form as provided in section 331.247, subsection 4, ~~and section~~ 331.252. The effective date of the charter and election of new officers of the community commonwealth shall be as provided in section 331.247, subsection 5.

Sec. 44. Section 331.506, subsection 1, paragraphs b and d, Code 2005, are amended to read as follows:

b. The auditor shall not issue a warrant to a drawee until the auditor has transmitted to the treasurer a list of the warrants to be issued. The list shall include the date, amount, and number of the warrant, name of the person to whom the warrant is issued, and the purpose for which the warrant is issued. The treasurer shall acknowledge receipt of the list by affixing the treasurer's signature at the bottom of the list and immediately returning the list to the auditor. The requirement that the treasurer sign to acknowledge receipt of the list is satisfied by use of a ~~digital signature or other~~ secure electronic signature if the county auditor and treasurer have complied with the applicable provisions of chapter 554D.

d. The requirement that the county auditor sign a warrant is satisfied by use of a ~~digital signature or other~~ secure electronic signature if the county auditor has complied with the applicable provisions of chapter 554D.

Sec. 45. Section 331.512, subsection 10, Code 2005, is amended to read as follows:

10. Furnish the assessor a plat book which is platted with the lands and lots within the assessment district as provided in section 441.29. ~~The auditor, with the approval of the board of supervisors, may establish a permanent real estate index number system as provided in section 441.29.~~

Sec. 46. Section 354.1, subsection 3, Code 2005, is amended to read as follows:

3. To provide for statewide, uniform procedures and standards for the platting of land while allowing the widest possible latitude for cities and counties to establish and enforce ordinances regulating the division and use of land, within the scope of, but not limited to, chapters 331, 335, 364, 414, and this chapter. All documents presented for recording pursuant to this chapter shall comply with section ~~331.602, subsection 1~~ 331.606B.

Sec. 47. Section 354.4, subsection 2, Code 2005, is amended to read as follows:

2. The auditor ~~may~~ shall note a permanent real estate index number upon each parcel shown on a plat of survey according to section 441.29 for real estate tax administration purposes. The surveyor shall not assign parcel letters or prepare a metes and bounds description for any parcel shown on a plat of survey unless the parcel was surveyed by the surveyor in compliance with chapter 355. Parcels within a plat of survey prepared pursuant to this section are subject to the regulations and ordinances of the governing body.

Sec. 48. Section 354.5, subsection 5, Code 2005, is amended to read as follows:

5. A description by reference to a permanent real estate index number is valid for the purpose of assessment and taxation ~~when a county has established a~~ under the permanent real estate index number system pursuant to section 441.29.

Sec. 49. Section 354.27, Code 2005, is amended to read as follows:

354.27 NOTING THE PERMANENT REAL ESTATE INDEX NUMBER.

When a permanent real estate index number system ~~has been~~ is established by a county pursuant to section 441.29, the auditor ~~may~~ shall note the permanent real estate index number on every conveyance.

Sec. 50. Section 368.7, subsection 1, paragraphs a and d, Code 2005, are amended to read as follows:

a. All of the owners of land in a territory adjoining a city may apply in writing to the council of the adjoining city requesting annexation of the territory. Territory comprising railway right-of-way or territory comprising not more than twenty percent of the land area may be included in the application without the consent of the owner to avoid creating an island or to create more uniform boundaries. Public land may be included in the territory to be annexed. However, the area of the territory that is public land included without the written consent of the agency with jurisdiction over the public land ~~may~~ shall not be used to determine the per-

centage of territory that is included with the consent of the owner and without the consent of the owner.

d. The city shall provide for a public hearing on the application before approving or denying it. The city shall provide written notice at least fourteen business days prior to any action by the city council regarding the application, including a public hearing, by regular mail to the chairperson of the board of supervisors of each county which contains a portion of the territory proposed to be annexed, each public utility which serves the territory proposed to be annexed, each owner of property located within the territory to be annexed who is not a party to the application, and each owner of property that adjoins the territory to be annexed unless the adjoining property is in a city. The city shall publish notice of the application and public hearing on the application in an official county newspaper in each county which contains a portion of the territory proposed to be annexed. Both the written and published notice shall include the time and place of the public hearing and a legal description of the territory to be annexed. The city ~~may~~ shall not assess the costs of providing notice as required in this section to the applicants.

Sec. 51. Section 368.25, Code 2005, is amended to read as follows:

368.25 FAILURE TO PROVIDE MUNICIPAL SERVICES.

Prior to expiration of the three-year period established in section 368.11, subsection 14 3, paragraph "n", the annexing city shall submit a report to the board describing the status of the provision of municipal services identified in the plan required in section 368.11, subsection 14 3, paragraph "n". If a city fails to provide municipal services, or fails to show substantial and continuing progress in the provision of municipal services, to territory involuntarily annexed, according to the plan for extending municipal services filed pursuant to section 368.11, subsection 14 3, paragraph "n", within the time period specified in that subsection, the city development board may initiate proceedings to sever the annexed territory from the city. The board shall notify the city of the severance proceedings and shall hold a public hearing on the proposed severance. The board shall give notice of the hearing in the same manner as notice of a public meeting in section 368.11. The board may order severance of all or a portion of the territory and the order to sever is not subject to approval at an election. A city may request that the board allow up to an additional three years to provide municipal services if good cause is shown. As an alternative to severance of the territory, the board may impose a moratorium on additional annexation by the city until the city complies with its plan for extending municipal services. For purposes of this section, "municipal services" means services included in the plan required by section 368.11, subsection 14 3, paragraph "n", for extending municipal services.

Sec. 52. Section 421.17, subsection 27, paragraph a, Code 2005, is amended to read as follows:

a. To establish, administer, and make available a centralized debt collection capability and procedure for the use by any state agency as defined in ~~former subsection 29~~ section 8A.504 to collect delinquent accounts, charges, fees, loans, taxes, or other indebtedness owed to or being collected by the state. The department's collection facilities shall only be available for use by other state agencies for their discretionary use when resources are available to the director and subject to the director's determination that use of the procedure is feasible. The director shall prescribe the appropriate form and manner in which this information is to be submitted to the office of the department. The obligations or indebtedness must be delinquent and not subject to litigation, claim, appeal, or review pursuant to the appropriate remedies of each state agency.

Sec. 53. Section 422.7, subsection 34, Code 2005, is amended by striking the subsection.

Sec. 54. Section 422.35, subsection 14, Code 2005, is amended by striking the subsection.

Sec. 55. Section 423.33, subsection 3, Code 2005, is amended to read as follows:

3. **EVENT SPONSOR'S LIABILITY FOR SALES TAX.** A person sponsoring a flea market or a craft, antique, coin, or stamp show or similar event shall obtain from every retailer selling tangible personal property or taxable services at the event proof that the retailer possesses a valid sales tax permit or secure from the retailer a statement, taken in good faith, that property or services offered for sale are not subject to sales tax. Failure to do so renders a sponsor of the event liable for payment of any sales tax, interest, and penalty due and owing from any retailer selling property or services at the event. Sections 423.31, 423.32, 423.37, 423.38, 423.39, 423.40, 423.41, and 423.42 apply to the sponsors. For purposes of this subsection, a person sponsoring a flea market or a craft, antique, coin, or stamp show or similar event does not include an organization which sponsors an event less than three times a year or a the state, county, or district agricultural fair or a fair as defined in section 174.1.

Sec. 56. Section 441.39, Code 2005, is amended to read as follows:

441.39 **TRIAL ON APPEAL.**

The court shall hear the appeal in equity and determine anew all questions arising before the board which relate to the liability of the property to assessment or the amount thereof. The court shall consider all of the evidence and there shall be no presumption as to the correctness of the valuation ~~of~~ or assessment appealed from. Its decision shall be certified by the clerk of the court to the county auditor, and the assessor, who shall correct the assessment books accordingly.

Sec. 57. Section 455B.174, subsection 4, paragraph e, Code 2005, is amended to read as follows:

e. If a public water supply has a groundwater source that contains petroleum, a fraction of crude oil, or their degradation products, or is located in an area deemed by the department as likely to be contaminated by such materials, and after consultation with the public water supply system and consideration of all applicable rules relating to remediation, the department may require the public water supply system to replace that groundwater source in order to receive a permit to operate. The requirement to replace the source shall only be made by the department if the public water supply system is fully compensated for any additional design, construction, operation, and monitoring costs from the Iowa comprehensive petroleum underground storage tank fund created by chapter 455G or from any other funds that do not impose a financial obligation on the part of the public water supply system. Funds available to or provided by the public water supply system may be used for system improvements made in conjunction with replacement of the source. The department cannot require a public water supply system to replace its water source with a less reliable water source or with a source that does not meet federal primary, secondary, or other health-based standards unless treatment is provided to ensure that the drinking water meets these standards. Nothing in this paragraph shall affect the public water supply's supply system's right to pursue recovery from a responsible party.

Sec. 58. Section 455B.751, subsection 7, Code 2005, is amended to read as follows:

7. "Third party" means any person other than a person that holds indicia of title to property as ~~identified in section 455B.752, subsection 1,~~ or that has acquired property as identified in section 455B.752, ~~subsection 2.~~

Sec. 59. Section 455G.2, subsection 6, Code 2005, is amended to read as follows:

6. "Claimant" means an owner or operator who has received assistance under the remedial account or who has had coverage under the underground storage tank insurance fund, established in section 455G.11, Code 2003, with respect to a release, or an installer or inspector who has had coverage under the underground storage tank insurance fund.

Sec. 60. Section 455G.2, subsection 15, Code 2005, is amended by striking the subsection.

Sec. 61. Section 455G.3, subsection 1, Code 2005, is amended to read as follows:

1. The Iowa comprehensive petroleum underground storage tank fund is created as a separate fund in the state treasury, and any funds remaining in the fund at the end of each fiscal year shall not revert to the general fund but shall remain in the Iowa comprehensive petroleum underground storage tank fund. Interest or other income earned by the fund shall be deposited in the fund. The fund shall include moneys credited to the fund under this section, section 423.43, subsection 1, paragraph "a", and sections 455G.8, 455G.9, and 455G.11, Code 2003, and other funds which by law may be credited to the fund. The moneys in the fund are appropriated to and for the purposes of the board as provided in this chapter. Amounts in the fund shall not be subject to appropriation for any other purpose by the general assembly, but shall be used only for the purposes set forth in this chapter. The treasurer of state shall act as custodian of the fund and disburse amounts contained in it as directed by the board including automatic disbursements of funds as received pursuant to the terms of bond indentures and documents and security provisions to trustees and custodians. The treasurer of state is authorized to invest the funds deposited in the fund at the direction of the board and subject to any limitations contained in any applicable bond proceedings. The income from such investment shall be credited to and deposited in the fund. The fund shall be administered by the board which shall make expenditures from the fund consistent with the purposes of the programs set out in this chapter without further appropriation. The fund may be divided into different accounts with different depositories as determined by the board and to fulfill the purposes of this chapter.

Sec. 62. Section 455G.3, subsection 3, paragraph c, Code 2005, is amended by striking the paragraph.

Sec. 63. Section 455G.4, subsection 1, paragraph e, Code 2005, is amended to read as follows:

e. Two owners or operators appointed by the governor. One of the owners or operators appointed pursuant to this paragraph shall have been a petroleum systems insured through the underground storage tank insurance fund as it existed on June 30, 2004, or a successor to the underground storage tank insurance fund and shall have been an insured through the insurance account of the comprehensive petroleum underground storage tank fund on or before October 26, 1990. One of the owners or operators appointed pursuant to this paragraph shall be self-insured.

Sec. 64. Section 455G.4, subsection 3, paragraph a, Code 2005, is amended to read as follows:

a. The board shall adopt rules regarding its practice and procedures, develop underwriting standards, ~~establish premiums for insurance fund coverage and risk factors~~, procedures for investigating and settling claims made against the fund, ~~determine appropriate deductibles or retentions in coverages or benefits offered~~, and otherwise implement and administer this chapter.

Sec. 65. Section 455G.4, subsection 3, paragraphs d and e, Code 2005, are amended by striking the paragraphs.

Sec. 66. Section 455G.13, subsection 2, paragraph b, Code 2005, is amended to read as follows:

b. An owner or operator's liability for a release for which coverage is admitted under the underground storage tank insurance fund established in section 455G.11, Code 2003, shall not exceed the amount of the deductible.

Sec. 67. Section 455G.13, subsection 12, Code 2005, is amended to read as follows:

12. RECOVERY OR SUBROGATION — INSTALLERS AND INSPECTORS. Notwithstand-

ing any other provision contained in this chapter, the board or a person insured under the underground storage tank insurance fund, established in section 455G.11, Code 2003, has no right of recovery or right of subrogation against an installer or an inspector who was insured by the underground storage tank insurance fund for the tank giving rise to the liability other than for recovery of any deductibles paid.

Sec. 68. Section 455G.14, Code 2005, is amended to read as follows:
455G.14 FUND NOT SUBJECT TO REGULATION.

The fund, ~~including but not limited to insurance coverage offered by the insurance fund~~, is not subject to regulation under chapter 502 or Title XIII, subtitle 1.

Sec. 69. Section 455G.17, subsection 3, Code 2005, is amended to read as follows:

3. The board shall adopt approved curricula for training persons to install underground storage tanks ~~in such a manner that the resulting installation may be certified under section 455G.11, subsection 10~~, and provide fire safety and environmental protection guidelines for persons removing tanks.

Sec. 70. Section 488.108, subsection 4, paragraph b, Code 2005, is amended to read as follows:

b. Each name reserved under section 488.109, or under sections 486A.1001, 490.401, 490.402, 490A.401, 490A.402, ~~504.401, 504.402~~, 504A.6, 504A.7, and 547.1.

Sec. 71. Section 488.1003, subsections 1 and 2, Code 2005, are amended to read as follows:

1. The person ~~that~~ was a partner when the conduct giving rise to the action occurred.
2. The ~~person whose~~ person's status as a partner devolved upon the person by operation of law or pursuant to the terms of the partnership agreement from a person that was a partner at the time of the conduct.

Sec. 72. Section 490.850, subsection 2, Code 2005, is amended to read as follows:

2. "Director" or "officer" means an individual who is or was a director or officer, respectively, of a corporation or who, while a director or officer of the corporation, is or was serving at the corporation's request as a director, officer, partner, trustee, employee, or agent of another domestic or foreign corporation, partnership, joint venture, trust, employee benefit plan, or other entity. A director or officer is considered to be serving an employee benefit plan at the corporation's request if the director's duties to the corporation also impose duties on, or otherwise involve services by, that director to the plan or to participants in or beneficiaries of the plan. "Director" or "officer" includes, unless the context requires otherwise, the estate or personal representative of a director or officer.

Sec. 73. Section 501.103, subsection 3, unnumbered paragraph 1, Code 2005, is amended to read as follows:

A cooperative that claims that it is exempt from the restrictions of section 9H.4 pursuant to subsection 2 shall file ~~an annual~~ a biennial report with the secretary of state on or before March 31 of each even-numbered year on forms supplied by the secretary of state. The report shall be signed by the president or the vice president of the cooperative and shall contain the following:

Sec. 74. Section 502.102, subsection 17, paragraph d, Code 2005, is amended to read as follows:

d. With respect to a viatical settlement investment contract, "issuer" means a person involved in creating, transferring, or selling to an investor any interest in such a contract, including but not limited to fractional or pooled interests, but does not include an agent or a broker-dealer.

Sec. 75. Section 502.204, subsection 1, Code 2005, is amended to read as follows:

1. ENFORCEMENT-RELATED POWERS. Except with respect to a federal covered security or a transaction involving a federal covered security, an order under this chapter may deny, suspend application of, condition, limit, or revoke an exemption created under section 502.201, subsection 3, paragraph "c", or subsection 7 ~~or 8, 8A, or 8B~~, or section 502.202, or an exemption or waiver created under section 502.203 with respect to a specific security, transaction, or offer. An order under this section may be issued only pursuant to the procedures in section 502.306, subsection 4, or section 502.604, and only prospectively.

Sec. 76. Section 502.508, subsection 2, Code 2005, is amended to read as follows:

2. CRIMINAL REFERENCE NOT REQUIRED. The attorney general or the proper county ~~attorney~~, with or without a reference from the administrator, may institute criminal proceedings under this chapter.

Sec. 77. Section 504.111, subsection 3, Code 2005, is amended to read as follows:

3. The document must contain the information required by this ~~subchapter~~ chapter. It may contain other information as well.

Sec. 78. Section 504.141, subsection 30, Code 2005, is amended to read as follows:

30. "Record date" means the date established under subchapter VI or VII on which a corporation determines the identity of its members for the purposes of this ~~subchapter~~ chapter.

Sec. 79. Section 504.142, subsection 4, paragraph b, Code 2005, is amended to read as follows:

b. When electronically transmitted to the ~~shareholder~~ member in a manner authorized by the ~~shareholder~~ member.

Sec. 80. Section 504.142, subsection 8, Code 2005, is amended to read as follows:

8. Written notice is correctly addressed to a domestic or foreign corporation authorized to transact business in this state, other than in its capacity as a member, if addressed to its registered agent or to its secretary at its principal office shown in its most recent biennial report or, in the case of a foreign corporation that has not yet delivered ~~an annual~~ a biennial report, in its application for a certificate of authority.

Sec. 81. Section 504.202, subsection 2, paragraph d, subparagraph (3), Code 2005, is amended to read as follows:

(3) A violation of section ~~504.834~~ 504.835.

Sec. 82. Section 504.202, subsection 2, paragraph e, subparagraph (3), Code 2005, is amended to read as follows:

(3) A violation of section ~~504.834~~ 504.835.

Sec. 83. Section 504.401, subsection 2, paragraph b, Code 2005, is amended to read as follows:

b. A corporate name reserved or registered under section 490.402, 490.403, 504.402, ~~or~~ 504.403, or 504A.6.

Sec. 84. Section 504.401, subsection 5, Code 2005, is amended to read as follows:

5. This ~~subchapter~~ chapter does not control the use of fictitious names; however, if a corporation or a foreign corporation uses a fictitious name in this state it shall deliver to the secretary of state for filing a copy of the resolution of its board of directors, certified by its secretary, adopting the fictitious name.

Sec. 85. Section 504.403, subsection 1, paragraph b, Code 2005, is amended to read as follows:

b. A corporate name reserved under section 490.402, 490.403, ~~or 504.402~~, or 504A.6 or registered under this section.

Sec. 86. Section 504.704, subsection 1, Code 2005, is amended to read as follows:

1. Unless limited or prohibited by the articles or bylaws of the corporation, action required or permitted by this ~~subchapter~~ chapter to be approved by the members of a corporation may be approved without a meeting of members if the action is approved by members holding at least eighty percent of the voting power. The action must be evidenced by one or more written consents describing the action taken, signed by those members representing at least eighty percent of the voting power, and delivered to the corporation for inclusion in the minutes or filing with the corporate records. A written consent may be revoked by a writing to that effect received by the corporation prior to the receipt by the corporation of unrevoked written consents sufficient in number to take corporation action.

Sec. 87. Section 504.705, subsection 3, paragraph b, Code 2005, is amended to read as follows:

b. The notice of an annual or regular meeting includes a description of any matter or matters which must be considered for approval by the members under sections 504.833, ~~504.857~~ 504.859, 504.1003, 504.1022, 504.1104, 504.1202, ~~504.1401~~, and 504.1402.

Sec. 88. Section 504.706, subsection 1, Code 2005, is amended to read as follows:

1. A member may waive any notice required by this ~~subchapter~~ chapter, the articles, or bylaws before or after the date and time stated in the notice. The waiver must be in writing, be signed by the member entitled to the notice, and be delivered to the corporation for inclusion in the minutes or filing with the corporate records.

Sec. 89. Section 504.713, subsection 1, Code 2005, is amended to read as follows:

1. Unless this ~~subchapter~~ chapter or the articles or bylaws of a corporation provide for a higher or lower quorum, ten percent of the votes entitled to be cast on a matter must be represented at a meeting of members to constitute a quorum on that matter.

Sec. 90. Section 504.714, subsection 1, Code 2005, is amended to read as follows:

1. Unless this ~~subchapter~~ chapter or the articles or bylaws of a corporation require a greater vote or voting by class, if a quorum is present, the affirmative vote of the votes represented and voting, which affirmative votes also constitute a majority of the required quorum, is the act of the members.

Sec. 91. Section 504.822, subsection 1, Code 2005, is amended to read as follows:

1. Except to the extent the articles or bylaws of a corporation require that action by the board of directors be taken at a meeting, action required or permitted by this ~~subchapter~~ chapter to be taken by the board of directors may be taken without a meeting if each director signs a consent describing the action to be taken and delivers it to the corporation.

Sec. 92. Section 504.824, Code 2005, is amended to read as follows:
504.824 WAIVER OF NOTICE.

1. A director may at any time waive any notice required by this ~~subchapter~~ chapter, the articles, or bylaws. Except as provided in subsection 2, the waiver must be in writing, signed by the director entitled to the notice, and filed with the minutes or the corporate records.

2. A director's attendance at or participation in a meeting waives any required notice of the meeting unless the director, upon arriving at the meeting or prior to the vote on a matter not noticed in conformity with this ~~subchapter~~ chapter, the articles, or bylaws, objects to lack of notice and does not thereafter vote for or assent to the objected-to action.

Sec. 93. Section 504.825, Code 2005, is amended to read as follows:
504.825 QUORUM AND VOTING.

1. Except as otherwise provided in this ~~subchapter~~ chapter, or the articles or bylaws of a corporation, a quorum of a board of directors consists of a majority of the directors in office immediately before a meeting begins. The articles or bylaws shall not authorize a quorum of fewer than one-third of the number of directors in office.

2. If a quorum is present when a vote is taken, the affirmative vote of a majority of directors present is the act of the board unless this ~~subchapter~~ chapter, the articles, or bylaws require the vote of a greater number of directors.

Sec. 94. Section 504.832, subsection 1, paragraph a, Code 2005, is amended to read as follows:

a. That section ~~504.202, subsection 2, paragraph "d", or 504.901~~ or the protection afforded by section ~~504.831~~ 504.833, if interposed as a bar to the proceeding by the director, does not preclude liability.

Sec. 95. Section 504.832, subsection 3, paragraph c, Code 2005, is amended to read as follows:

c. Affect any rights to which the corporation or a ~~shareholder~~ member may be entitled under another statute of this state or the United States.

Sec. 96. Section 504.833, subsection 2, unnumbered paragraph 1, Code 2005, is amended to read as follows:

A transaction in which a director of a ~~mutual benefit~~ corporation has a conflict of interest may be approved if either of the following occurs:

Sec. 97. Section 504.833, subsection 5, Code 2005, is amended to read as follows:

5. For purposes of subsection 2, paragraph "b", a conflict of interest transaction is authorized, approved, or ratified by the members if it receives a majority of the votes entitled to be counted under this subsection. Votes cast by or voted under the control of a director who has a direct or indirect interest in the transaction, and votes cast by or voted under the control of an entity described in subsection 3, paragraph "a", shall not be counted in a vote of members to determine whether to authorize, approve, or ratify a conflict of interest transaction under subsection 2, paragraph "b". The vote of these members, however, is counted in determining whether the transaction is approved under other sections of this ~~subchapter~~ chapter. A majority of the voting power, whether or not present, that is entitled to be counted in a vote on the transaction under this subsection constitutes a quorum for the purpose of taking action under this section.

Sec. 98. Section 504.835, subsection 1, Code 2005, is amended to read as follows:

1. Unless a director complies with the applicable standards of conduct described in section 504.831, a director who votes for or assents to a distribution made in violation of this ~~subchapter~~ chapter is personally liable to the corporation for the amount of the distribution that exceeds what could have been distributed without violating this ~~subchapter~~ chapter.

Sec. 99. Section 504.835, subsection 2, paragraph b, Code 2005, is amended to read as follows:

b. Each person who received an unlawful distribution for the amount of the distribution whether or not the person receiving the distribution knew it was made in violation of this ~~subchapter~~ chapter.

Sec. 100. Section 504.852, subsection 4, paragraph a, Code 2005, is amended to read as follows:

a. In connection with a proceeding by or in the right of the corporation, except for reason-

able expenses incurred in connection with the proceeding if it is determined that the director has met the relevant standard of conduct under subsection 1.

Sec. 101. Section 504.856, subsection 2, paragraph c, Code 2005, is amended to read as follows:

c. By the members of a ~~mutual benefit~~ corporation, but directors who are at the time parties to the proceeding shall not vote on the determination.

Sec. 102. Section 504.857, subsection 1, paragraph b, subparagraph (2), subparagraph subdivision (b), Code 2005, is amended to read as follows:

(b) An intentional infliction of harm on the corporation or the ~~shareholders~~ members.

Sec. 103. Section 504.901, subsection 3, Code 2005, is amended to read as follows:

3. A violation of section ~~504.834~~ 504.835.

Sec. 104. Section 504.1008, Code 2005, is amended to read as follows:

504.1008 EFFECT OF AMENDMENT AND RESTATEMENT.

An amendment to articles of incorporation does not affect a cause of action existing against or in favor of the corporation, a proceeding to which the corporation is a party, any requirement or limitation imposed upon the corporation, or any property held by it by virtue of any trust upon which such property is held by the corporation, or the existing rights of persons other than members of the corporation. An amendment changing a corporation's name does not abate a proceeding brought by or against the corporation in its former name.

Sec. 105. Section 504.1101, subsection 1, Code 2005, is amended to read as follows:

1. Subject to the limitations set forth in section 504.1102, one or more nonprofit corporations may merge with or into any one or more business corporations or nonprofit corporations or limited liability companies, if the plan of merger is approved as provided in section 504.1103.

Sec. 106. Section 504.1102, subsection 1, paragraph d, subparagraph (3), Code 2005, is amended to read as follows:

(3) The merger is approved by a majority of directors of the public benefit or religious corporation who are not and will not become members or shareholders in or officers, employees, agents, or consultants of the surviving ~~corporation~~ entity.

Sec. 107. Section 523A.402, subsection 6, paragraph c, Code 2005, is amended to read as follows:

c. The annuity shall not be contestable, or limit death benefits in the case of suicide, with respect to that portion of the face amount of the annuity which is required by paragraph "b". The annuity shall not refer to physical examination, or otherwise operate as an exclusion, limitation, or condition other than requiring submission of proof of death or surrender of the annuity at the time the prepaid purchase agreement is funded, matures, or is canceled, as the case may be.

Sec. 108. Section 524.310, subsection 1, Code 2005, is amended to read as follows:

1. The name of a state bank originally incorporated or organized after the effective date of this chapter shall include the word "bank" and may include the word "state" or "trust" in its name. A state bank using the word "trust" in its name must be authorized under this chapter to act in a fiduciary capacity. A national bank or federal savings ~~bank~~ association shall not use the word "state" in its legally chartered name.

Sec. 109. Section 524.1201, subsection 4, Code 2005, is amended by striking the subsection.

Sec. 110. Section 524.1303, subsections 4 and 5, Code 2005, are amended to read as follows:

4. Within thirty days after the date of the ~~second~~ publication of the notice, any interested person may submit to the superintendent written comments and data on the application. The superintendent may extend the thirty-day comment period if, in the superintendent's judgment, extenuating circumstances exist.

5. Within thirty days after the date of the ~~second~~ publication of the notice, any interested person may submit to the superintendent a written request for a hearing on the application. The request shall state the nature of the issues or facts to be presented and the reasons why written submissions would be insufficient to make an adequate presentation to the superintendent. If the reasons are related to factual disputes, the disputes shall be described. Comments challenging the legality of an application shall be submitted separately in writing and shall not be considered at a hearing conducted pursuant to this section. Written requests for hearings shall be evaluated by the superintendent, who may grant or deny such requests in whole or in part. A hearing request shall generally be granted only if it is determined that written submissions would be inadequate or that a hearing would otherwise be beneficial to the decision-making process. A hearing may be limited to issues considered material by the superintendent.

Sec. 111. Section 524.1309, subsections 5 and 6, Code 2005, are amended to read as follows:

5. The board of directors has full power to complete the settlement of the affairs of the state bank. Within thirty days after approval by the superintendent of the plan to cease the business of banking and become a corporation subject to chapter 490, or a limited liability company subject to chapter 490A, the state bank shall give notice of its intent to persons identified in section 524.1305, subsection 4 ~~3~~, in the manner provided for in that subsection. In completing the settlement of its affairs as a state bank the state bank shall also follow the procedure prescribed in section 524.1305, subsections 4, 5, and 6.

6. Upon completion of all the requirements of this section, the state bank shall deliver to the superintendent articles of intent to be subject to chapter 490 or 490A, together with the applicable filing and recording fees, which shall set forth that the state bank has complied with this section, that it has ceased to carry on the business of banking, and the information required by section 490.202 relative to the contents of articles of incorporation under chapter 490, or article of organization under chapter 490A. If the superintendent finds that the state bank has complied with this section and that the articles of intent to be subject to chapter 490 or 490A satisfy the requirements of this section, the superintendent shall deliver them to the secretary of state for filing and recording in the secretary of state's office, and ~~they~~ the superintendent shall be filed file and ~~recorded~~ record them in the office of the county recorder.

Sec. 112. Section 524.1402, subsections 5 and 6, Code 2005, are amended to read as follows:

5. Within thirty days after the date of the ~~second~~ publication of the notice required under subsection 4, any interested person may submit to the superintendent written comments and data on the application. Comments challenging the legality of an application shall be submitted separately in writing. The superintendent may extend the thirty-day comment period if, in the superintendent's judgment, extenuating circumstances exist.

6. Within thirty days after the date of the ~~second~~ publication of the notice required under subsection 4, any interested person may submit to the superintendent a written request for a hearing on the application. The request shall state the nature of the issues or facts to be presented and the reasons why written submissions would be insufficient to make an adequate presentation to the superintendent. If the reasons are related to factual disputes, the disputes shall be described. Written requests for hearings shall be evaluated by the superintendent, who may grant or deny such requests in whole or in part. A hearing request shall generally be granted only if it is determined that written submissions would be inadequate or that a hear-

ing would otherwise be beneficial to the decision-making process. A hearing may be limited to issues considered material by the superintendent.

Sec. 113. Section 535.8, subsection 2, paragraph b, unnumbered paragraph 3, Code 2005, is amended to read as follows:

The collection of any costs other than as expressly permitted by this paragraph "b" is prohibited. However, additional costs incurred in connection with a loan under this paragraph "b", if bona fide and reasonable, may be collected by a state-chartered financial institution licensed under chapter 524, 533, or 534, to the extent permitted under applicable federal law as determined by the office of the comptroller of the currency of the United States department of treasury, the national credit union administration, or the office of thrift supervision of the United States department of treasury. Such costs shall apply only to the same type of state-chartered entity as the federally chartered entity affected and shall apply to and may be collected by an insurer organized under chapter 508 or 515, or otherwise authorized to conduct the business of insurance in this state.

Sec. 114. Section 535.8, subsection 2, paragraph b, Code 2005, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Nothing in this section shall be construed to change the prohibition against the sale of title insurance or sale of insurance against loss or damage by reason of defective title or encumbrances as provided in section 515.48, subsection 10.

Sec. 115. Section 546.10, subsection 1, Code 2005, is amended by adding the following new paragraph:

NEW PARAGRAPH. f. The real estate appraiser examining board created pursuant to section 543D.4.

Sec. 116. Section 551A.9, subsection 3, paragraph e, Code 2005, is amended to read as follows:

e. Misrepresent the amount of profits, net or gross, which the ~~business opportunity~~ purchaser can expect from the operation of the business opportunity.

Sec. 117. Section 602.8102, subsection 135A, Code 2005, is amended to read as follows:
135A. Assess the surcharges provided by sections 911.1, 911.2, 911.3, and 911.4.

Sec. 118. Section 714.22, unnumbered paragraph 1, Code 2005, is amended to read as follows:

The provisions of sections ~~714.17 to 714.22~~ through 714.21 shall not apply to trade or vocational schools if they meet either of the following conditions:

Sec. 119. Section 814.11, subsection 7, Code 2005, is amended to read as follows:

7. An attorney appointed under this section is not liable to a person represented by the attorney for damages as a result of a conviction in a criminal case unless the court determines in a postconviction proceeding or on direct appeal that the person's conviction resulted from ineffective assistance of counsel, and the ineffective assistance of counsel is the proximate cause of the damage. In juvenile or civil proceedings, an attorney appointed under this section is not liable to a person represented by the attorney for damages unless it has been determined that the attorney has provided ineffective assistance of counsel and the ineffective assistance of counsel ~~claim~~ is the proximate cause of the damage.

Sec. 120. Section 815.10, subsection 6, Code 2005, is amended to read as follows:

6. An attorney appointed under this section is not liable to a person represented by the attorney for damages as a result of a conviction in a criminal case unless the court determines in a postconviction proceeding or on direct appeal that the person's conviction resulted from

ineffective assistance of counsel, and the ineffective assistance of counsel is the proximate cause of the damage. In juvenile or civil proceedings, an attorney appointed under this section is not liable to a person represented by the attorney for damages unless it has been determined that the attorney has provided ineffective assistance of counsel, and the ineffective assistance of counsel ~~claim~~ is the proximate cause of the damage.

Sec. 121. 2002 Iowa Acts, chapter 1111, section 36, is repealed.

Sec. 122. 2004 Iowa Acts, chapter 1049, section 81, the portion enacting section 504.810, subsection 1, paragraph a, is amended to read as follows:

a. A director engaged in fraudulent conduct with respect to the corporation or its members, grossly abused the position of director, or intentionally inflicted harm on the corporation.

Sec. 123. 2004 Iowa Acts, chapter 1049, section 101, the portion enacting section 504.851, subsection 6, paragraph b, is amended to read as follows:

b. When used with respect to an officer, as contemplated in section 504.857, the office in a corporation held by the officer. "Official capacity" does not include service for any other foreign or domestic business or nonprofit corporation or any partnership, joint venture, trust, employee benefit plan, or other entity.

Sec. 124. 2004 Iowa Acts, chapter 1161, is amended by adding the following new section:
SEC. 62A. Section 502.701, subsection 1, Code 2003, is amended to read as follows:

1. A joint investment trust organized pursuant to chapter 28E for the purposes of joint investment of public funds is subject to the jurisdiction and authority of the administrator, including all requirements of this chapter, except the registration provisions of sections ~~502.201~~ 502.301 and ~~502.218~~ 502.321.

Sec. 125. Sections 101.28, 163.13, 163.22, and 266.32, Code 2005, are repealed.

Sec. 126. EFFECTIVE DATES AND RETROACTIVE APPLICABILITY.

1. The section of this Act amending section 22.1, subsection 3, is retroactively applicable to July 1, 2004, and is applicable on and after that date.

2. The section of this Act repealing 2002 Iowa Acts, chapter 1111, section 36, takes effect upon enactment and applies retroactively to June 30, 2004.

3. The section of this Act amending 2004 Acts, chapter 1049, section 81, takes effect upon enactment and applies retroactively to July 1, 2004.

4. The section of this Act amending 2004 Iowa Acts, chapter 1049, section 101, takes effect upon enactment and applies retroactively to July 1, 2004.

5. The section of this Act amending 2004 Iowa Acts, chapter 1161, takes effect upon enactment and applies retroactively to January 1, 2005.

Approved April 6, 2005