

term care, disability income insurance coverage, coverage issued as a supplement to liability insurance, workers' compensation or similar insurance, ~~or automobile medical payment insurance, or denials of coverage not based on medical necessity.~~

Approved April 2, 2008

CHAPTER 1031

SUBSTANTIVE CODE CORRECTIONS

S.F. 2317

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:

DIVISION I MISCELLANEOUS PROVISIONS

Section 1. Section 1C.2, Code 2007, is amended to read as follows:

1C.2 PAID HOLIDAYS.

~~1.~~ 1. State employees are granted, except as provided in ~~the fourth paragraph of this section subsection 3,~~ the following holidays off from employment with pay:

- ~~1.~~ 1. ~~a.~~ New Year's Day, January 1.
- ~~2.~~ 2. ~~b.~~ Martin Luther King, Jr.'s Birthday, the third Monday in January.
- ~~3.~~ 3. ~~c.~~ Memorial Day, the last Monday in May.
- ~~4.~~ 4. ~~d.~~ Independence Day, July 4.
- ~~5.~~ 5. ~~e.~~ Labor Day, the first Monday in September.
- ~~6.~~ 6. ~~f.~~ Veterans Day, November 11.
- ~~7.~~ 7. ~~g.~~ Thanksgiving Day, the fourth Thursday in November.
- ~~8.~~ 8. ~~h.~~ Friday after Thanksgiving, the Friday following Thanksgiving Day.
- ~~9.~~ 9. ~~i.~~ Christmas Day, December 25.

~~10. Two days of paid leave each year to be added to the vacation allowance and accrued under the provisions of section 70A.1.~~

2. a. ~~State employees are granted two days of paid leave each year to be added to the vacation allowance and accrued under the provisions of section 70A.1. The~~ In addition, an appointing authority shall grant not more than four additional days of paid leave each year as required to implement contract provisions negotiated pursuant to chapter 20.

b. The executive council may designate days off from employment with pay in addition to those enumerated in this section for state employees at its discretion.

3. If a holiday enumerated in this section falls on Saturday, the preceding Friday shall be granted and if a holiday enumerated in this section falls on Sunday, the following Monday shall be granted. In those cases, where by nature of the employment a state employee must be required to work on a holiday the provisions of ~~the first paragraph of this section subsection 1~~ shall not apply, however, compensation shall be made on the basis of the employee's straight time hourly rate for a forty-hour workweek and shall be made in either compensatory time off or cash payment, at the discretion of the appointing authority unless otherwise provided for

in a collective bargaining agreement. Notwithstanding any other provision of this section, an employee of the state who does not accrue sick leave or vacation, and who works on a holiday, shall receive regular pay for the hours worked on that holiday and shall not otherwise earn holiday compensatory pay.

4. A holiday or paid leave granted to a state employee under this section shall be in addition to vacation time to which a state employee is entitled under section 70A.1.

Sec. 2. Section 2.40, subsection 1, Code 2007, is amended to read as follows:

1. a. A member of the general assembly may elect to become a member of a state group insurance plan for employees of the state established under chapter 509A subject to the following conditions:

a- (1) The member shall be eligible for all state group insurance plans on the basis of enrollment rules established for full-time state employees excluded from collective bargaining as provided in chapter 20.

b- (2) The member shall pay the premium for the plan selected on the same basis as a full-time state employee excluded from collective bargaining as provided in chapter 20.

e- (3) The member shall authorize a payroll deduction of the premium due according to the member's pay plan selected pursuant to section 2.10, subsection 4.

d- (4) The premium rate shall be the same as the premium rate paid by a state employee for the plan selected.

~~b.~~ A member of the general assembly may elect to become a member of a state group insurance plan. A member of the general assembly may continue membership in a state group insurance plan without reapplication during the member's tenure as a member of consecutive general assemblies. For the purpose of electing to become a member of the state health or medical service group insurance plan, a member of the general assembly has the status of a "new hire", full-time state employee following each election of that member in a general or special election, or during the first subsequent annual open enrollment.

c. In lieu of membership in a state health or medical group insurance plan, a member of the general assembly may elect to receive reimbursement for the costs paid by the member for a continuation of a group coverage (COBRA) health or medical insurance plan. The member shall apply for reimbursement by submitting evidence of payment for a COBRA health or medical insurance plan. The maximum reimbursement shall be no greater than the state's contribution for health or medical insurance family plan II.

d. A member of the general assembly who elects to become a member of a state health or medical group insurance plan shall be exempted from preexisting medical condition waiting periods. A member of the general assembly may change programs or coverage under the state health or medical service group insurance plan during the month of January of odd-numbered years, but program and coverage change selections shall be subject to the enrollment rules established for full-time state employees excluded from collective bargaining as provided in chapter 20.

e. A person who has been a member of the general assembly for two years and who has elected to be a member of a state health or medical group insurance plan may continue to be a member of such state health or medical group insurance plan by requesting continuation in writing to the finance officer within thirty-one days after leaving office. The continuing former member of the general assembly shall pay the total premium for the state plan and shall have the same rights to change programs or coverage as state employees. This paragraph shall not be construed to permit a former member to become a member of a state health or medical group insurance plan providing programs or coverage of a type that the former member did not elect to continue pursuant to this paragraph.

f. In the event of the death of a former member of the general assembly who has elected to continue to be a member of a state health or medical group insurance plan, the surviving spouse of the former member whose insurance would otherwise terminate because of the death of the former member may elect to continue to be a member of such state health or medical group insurance plan by requesting continuation in writing to the finance officer within

thirty-one days after the death of the former member. The surviving spouse of the former member shall pay the total premium for the state plan and shall have the same rights to change programs or coverage as state employees. For purposes of this paragraph, health or medical programs or coverage and dental programs or coverage are to be treated separately and the rights to change programs or coverage apply only to the type of programs or coverage that the continuing former member has elected to continue. ~~This paragraph shall not be construed to permit a former member to become a member of a state health or medical group insurance plan providing programs or coverage of a type that the former member did not elect to continue pursuant to this paragraph.~~

Sec. 3. Section 2C.16, Code 2007, is amended to read as follows:

2C.16 RECOMMENDATIONS TO AGENCY.

~~1. If, The citizens' aide shall state recommendations to an agency, if, after~~ having considered a complaint and whatever material the citizens' aide deems pertinent, the citizens' aide finds substantiating facts ~~that for any of the following:~~

- ~~1. a.~~ A matter should be further considered by the agency; ~~2.~~
- ~~b.~~ An administrative action should be modified or canceled; ~~3.~~
- ~~c.~~ A rule on which an administrative action is based should be altered; ~~4.~~
- ~~d.~~ Reasons should be given for an administrative action; ~~or, 5.~~
- ~~e.~~ Any other action should be taken by the agency; ~~the citizens' aide shall state the recommendations to the agency.~~

~~2.~~ If the citizens' aide requests, the agency shall, within twenty working days notify the citizens' aide of any action taken on the recommendations or the reasons for not complying with them.

~~3.~~ If the citizens' aide believes that an administrative action has occurred because of laws of which results are unfair or otherwise objectionable, the citizens' aide shall notify the general assembly concerning desirable statutory change.

Sec. 4. Section 3.1, Code 2007, is amended to read as follows:

3.1 FORM OF BILLS.

~~1.~~ Bills designed to amend, revise, enact, codify, or repeal a law:

~~1. a.~~ Shall refer to the numbers of the sections or chapters of the Code or Code Supplement to be amended or repealed, but it is not necessary to refer to the sections or chapters in the title.

~~2. b.~~ Shall refer to the session of the general assembly and the sections and chapters of the Acts to be amended if the bill relates to a section or sections of an Act not appearing in the Code or codified in a supplement to the Code.

~~3. c.~~ All Shall express all references to statutes ~~shall be expressed~~ in numerals.

~~4. 2.~~ The title to a bill shall contain a brief statement of the purpose of the bill, however all detail matters properly connected with the subject so expressed may be omitted from the title.

Sec. 5. Section 3.3, Code Supplement 2007, 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 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 Code section was taken. However, except as provided for the uniform commercial code, pursuant to section 554.1107, headnotes shall not be considered as part of the law as enacted. Historical references shall not be considered as a part of the law as enacted.

Sec. 6. Section 4.13, Code 2007, is amended to read as follows:

4.13 GENERAL SAVINGS PROVISION.

~~1. The re-enactment reenactment,~~ revision, amendment, or repeal of a statute does not affect any of the following:

~~1. a.~~ The prior operation of the statute or any prior action taken ~~thereunder; under the statute.~~

2. ~~b.~~ Any validation, cure, right, privilege, obligation, or liability previously acquired, accrued, accorded, or incurred ~~thereunder;~~ under the statute.

3. ~~c.~~ Any violation ~~thereof~~ of the statute or penalty, forfeiture, or punishment incurred in respect thereto to the statute, prior to the amendment or repeal; ~~or.~~

4. ~~d.~~ Any investigation, proceeding, or remedy in respect of any privilege, obligation, liability, penalty, forfeiture, or punishment; and the investigation, proceeding, or remedy may be instituted, continued, or enforced, and the penalty, forfeiture, or punishment imposed, as if the statute had not been repealed or amended.

2. If the penalty, forfeiture, or punishment for any offense is reduced by a ~~re-enactment~~ reenactment, revision, or amendment of a statute, the penalty, forfeiture, or punishment if not already imposed shall be imposed according to the statute as amended.

Sec. 7. Section 7E.5, subsection 1, paragraph s, Code 2007, is amended to read as follows:

s. The department of human rights, created in section 216A.1, which has primary responsibility for services relating to Latino persons, women, persons with disabilities, community action agencies, criminal and juvenile justice planning, the status of African-Americans, ~~and deaf and hard-of-hearing persons,~~ and status of Iowans of Asian and Pacific Islander heritage.

Sec. 8. Section 8A.101, subsection 1, unnumbered paragraph 1, Code Supplement 2007, is amended to read as follows:

“Agency” or “state agency” means a unit of state government, which is an authority, board, commission, committee, council, department, ~~examining or licensing board,~~ or independent agency as defined in section 7E.4, including but not limited to each principal central department enumerated in section 7E.5. However, “agency” or “state agency” does not mean any of the following:

Sec. 9. Section 8F.2, subsection 1, Code Supplement 2007, is amended to read as follows:

1. “Agency” means a unit of state government, which is an authority, board, commission, committee, council, department, ~~examining or licensing board,~~ or independent agency as defined in section 7E.4, including but not limited to each principal central department enumerated in section 7E.5. However, “agency” does not mean the Iowa public employees’ retirement system created under chapter 97B, the public broadcasting division of the department of education created under section 256.81, the statewide fire and police retirement system created under chapter 411, or an agricultural commodity promotion board subject to a producer referendum.

Sec. 10. Section 9D.2, Code 2007, is amended to read as follows:

9D.2 REGISTRATION REQUIRED.

1. a. A travel agency doing business in this state shall register with the secretary of state as a travel agency if it or its travel agent conducts the solicitation of an Iowa resident.

b. A travel agency required to register under paragraph “a” shall not permit a travel agent employed by the travel agency to do business in this state unless the agency ~~has filed the required registration statement~~ is registered with the secretary of state.

2. A travel agent shall not knowingly do business in this state unless and until the travel agency employing the travel agent ~~has~~ is registered with the secretary of state as a travel agency if the travel agency or any of the agency’s travel agents conduct the solicitation of an Iowa resident.

3. This section does not require registration for, or prohibit, solicitation by mail or telecommunications of a person with whom the travel agency has a previous travel services provider-customer relationship, having previously arranged travel related services for that customer on at least one prior occasion.

4. “Doing business” in this state, for purposes of this chapter, means any of the following:

a. Offering to sell or selling travel services, if the offer is made or received within the state.

b. Offering to arrange, or arranging, travel services for a fee or commission, direct or indirect, if the offer is made or received in this state.

c. Offering to, or awarding travel services as a prize or award, if the offer or award is made in or received in this state.

5. An applicant shall complete the an application for registration statement form provided by the secretary. The registration statement application form must be accompanied by the required bond or evidence of financial responsibility and the registration fee. The registration statement application form shall include all of the following information:

a. The name and signature of an officer or partner of a business entity or the names and signatures of the principal owner and operator if the agency is a sole proprietorship.

b. The name, address, and telephone number of the applicant and the name of all travel agents employed by the applicant travel agency.

c. The name, address, and telephone number of any person who owns or controls, directly or indirectly, ten percent or more of the applicant.

d. If the applicant is a foreign corporation or business, the name and address of the corporation's agent in this state for service of process.

e. Any additional information required by rule adopted by the secretary pursuant to chapter 17A.

6. The application form shall be accompanied by a written irrevocable consent to service of process. The consent must provide that actions in connection with doing business in this state may be commenced against the registrant in the proper jurisdiction in this state in which the cause of action may arise, or in which the plaintiff may reside, by service of process on the secretary as the registrant's agent and stipulating and agreeing that such service of process shall be taken and held in all courts to be as valid and binding as if service of process had been made upon the person according to the laws of this or any other state. The consent to service of process shall be in such form and supported by such additional information as the secretary may by rule require.

7. An annual registration fee as established by the secretary by rule is required at the time the application for registration statement form is filed with the secretary, and on or before the anniversary date of the effective date of registration for each subsequent year. The registration fee shall be established at a rate deemed reasonably necessary by the secretary to support the administration of this chapter, but not to exceed fifteen dollars per year per agency. If an applicant or a registrant fails to pay the annual registration fee, the application for registration or registration lapses and becomes ineffective.

8. A registrant shall submit to the secretary corrections to the information supplied in the registration statement form within a reasonable time after a change in circumstances, which circumstances would be required to be reported in an initial application for registration statement form, except travel agents' names as required in subsection 5, paragraph "b". The names of travel agents shall be updated at the time of annual registration.

9. The secretary may revoke or suspend a registration for cause subject to the contested case provisions of chapter 17A.

Sec. 11. Section 9D.3, Code 2007, is amended to read as follows:

9D.3 EVIDENCE OF FINANCIAL SECURITY.

1. An application for registration of a travel agency must be accompanied by a surety or cash performance bond in conformity with rules adopted by the secretary in the principal amount of ten thousand dollars, with an aggregate limit of ten thousand dollars. The bond shall be executed by a surety company authorized to do business in this state, and the bond shall be continuous in nature until canceled by the surety with not less than sixty days' written notice to both the registrant travel agency and to the secretary. The notice shall indicate the surety's intent to cancel the bond on a date at least sixty days after the date of the notice.

2. a. The bond shall be payable to the state for the use and benefit of either:

a. (1) A person who is injured by the fraud, misrepresentation, or financial failure of the travel agency or a travel agent employed by the travel agency.

b. (2) The state on behalf of a person or persons under paragraph "a".

b. The bond shall be conditioned such that the registrant will pay any judgment recovered

by a person in a court of this state in a suit for actual damages, including reasonable attorney's fees, or for rescission, resulting from a cause of action involving the sale or offer of sale of travel services. The bond shall be open to successive claims, but the aggregate amount of the claims paid shall not exceed the principal amount of the bond.

3. If a an applicant or registrant has contracted with the airlines reporting corporation or the passenger network services corporation, or similar organizations approved by the secretary of state with equivalent bonding requirements for participation, in lieu of the bond required by subsection 1, the applicant or registrant may file with the secretary a certified copy of the official approval and appointment of the applicant or registrant from the airlines reporting corporation or the passenger network services corporation.

4. In lieu of any bond or guarantee required to be provided by this section, a an applicant or registrant may do any of the following:

a. File with secretary proof of professional liability and errors and omissions insurance in an amount of at least one million dollars annually.

b. Deposit with the secretary cash, securities, or a statement from a federally insured financial institution guaranteeing the performance of the applicant or registrant up to a maximum of ten thousand dollars to be held or applied to the purposes to which the proceeds of the bond would otherwise be applied.

Sec. 12. Section 13A.3, Code 2007, is amended to read as follows:

13A.3 MEMBERSHIP AND TERMS.

1. The council shall consist of five members as follows:

~~1. a.~~ The attorney general or the attorney general's designated representative.

~~2. b.~~ The president of the Iowa county attorneys association or its successor.

~~3. c.~~ Three members elected by the Iowa county attorneys association or its successor.

2. A member shall vacate an appointment upon termination of the member's official position as a prosecuting attorney or an attorney general. A vacancy shall be filled in the same manner as the original appointment. A member appointed to fill a vacancy created other than by expiration of a term on the council shall be appointed for the unexpired term of the member whom the new member is to succeed in the same manner as the original appointment. Any member may be reappointed for an additional term.

3. The terms of the elected members shall be three years and shall ~~begin January 1, 1976, but initial terms shall be staggered so that the elected members shall serve terms of one, two, and three years respectively~~ one member is elected each year.

Sec. 13. Section 15.421, subsections 2 and 3, Code Supplement 2007, are amended to read as follows:

2. a. The commission shall ~~consist of~~ include fifteen voting members appointed by the governor, subject to confirmation by the senate. At the time of appointment or reappointment, a voting member shall be at least eighteen years of age, but less than thirty-five years of age. The voting membership shall reflect diversity within all of the following areas:

(1) Geographic location within the state.

(2) Public, private, and nonprofit sector employment.

(3) Location of secondary and higher education within and outside Iowa.

(4) Urban and rural residents.

(5) Multicultural diversity.

b. Four members of the general assembly shall serve as nonvoting, ex officio members of the commission with two from the senate and two from the house of representatives and not more than one member from each chamber being from the same political party. The two senators shall be designated by the president of the senate after consultation with the majority and minority leaders of the senate. The two representatives shall be designated by the speaker of the house of representatives after consultation with the majority and minority leaders of the house of representatives.

3. The voting members shall be appointed in compliance with the requirements of sections 69.16, 69.16A, and 69.19, and shall serve staggered, three-year terms as designated by the governor. ~~Members~~ Voting members may be reappointed by the governor provided the requirements of subsection 2 are met.

Sec. 14. Section 15E.17, subsection 4, Code 2007, is amended to read as follows:

4. Subsections 2 and 3 do not apply to the following:

- a. The utilities division of the department of commerce insofar as the information relates to public utilities.
- b. The banking division of the department of commerce.
- ~~c. The savings and loan division of the department of commerce.~~
- d. c. The credit union division of the department of commerce.

Sec. 15. Section 15G.111, subsection 2, Code Supplement 2007, is amended to read as follows:

2. a. For the fiscal period beginning July 1, 2005, and ending June 30, 2015, there is appropriated each fiscal year from the grow Iowa values fund created in section 15G.108 to the department of economic development five million dollars for financial assistance to institutions of higher learning under the control of the state board of regents for capacity building infrastructure in areas related to technology commercialization, for marketing and business development efforts in areas related to technology commercialization, entrepreneurship, and business growth, and for infrastructure projects and programs needed to assist in the implementation of activities under chapter 262B. In allocating moneys to institutions under the control of the state board of regents, the board shall require the institutions to provide a one-to-one match of additional moneys for the activities funded with moneys appropriated under this subsection. The state board of regents shall annually prepare a report for submission to the governor, the general assembly, and the legislative services agency regarding the activities, projects, and programs funded with moneys appropriated under this subsection.

b. The state board of regents may allocate any moneys appropriated under this subsection and received from the department for financial assistance to a single biosciences development organization determined by the department to possess expertise in promoting the area of bioscience entrepreneurship. The organization must be composed of representatives of both the public and the private sector and shall be composed of subunits or subcommittees in the areas of existing identified biosciences platforms, education and workforce development, commercialization, communication, policy and governance, and finance. Such financial assistance shall be used for purposes of activities related to biosciences and bioeconomy development under chapter 262B, and to accredited private universities in this state.

~~By September 30, 2007, the legislative services agency shall submit a written report to the fiscal committee of the legislative council and the standing committees on economic growth in the senate and the house of representatives regarding a review of expenditures by the state board of regents from appropriations under this subsection and 2006 Iowa Acts, ch. 1179, section 14.~~

Sec. 16. Section 16.3, subsection 11, Code Supplement 2007, is amended by striking the subsection.

Sec. 17. Section 16.5, subsection 1, paragraphs f and m, Code Supplement 2007, are amended to read as follows:

f. By rule, the ~~board~~ authority shall adopt procedures relating to competitive bidding, including the identification of those circumstances under which competitive bidding by the authority, either formally or informally, shall be required. In any bidding process, the authority may administer its own bidding and procurement or may utilize the services of the department of administrative services or any other agency. Except when such rules apply, the authority and all contracts made by it in carrying out its public and essential governmental functions with respect to any of its programs shall be exempt from the provisions and requirements of

all laws or rules of the state which require competitive bids in connection with the letting of such contracts.

m. In cooperation with other local, state, or federal governmental agencies, conduct research studies, develop estimates of unmet housing needs, and gather and compile data useful to facilitate facilitating decision making, and enter into agreements to carry out programs within or without the state which the authority finds to be consistent with the goals of the authority.

Sec. 18. Section 24.20, Code 2007, is amended to read as follows:

24.20 TAX RATES FINAL.

The several tax rates and levies of the municipalities thus determined and certified in the manner provided in the preceding sections 24.1 through 24.19, except such as are authorized by a vote of the people, shall stand as the tax rates and levies of said municipality for the ensuing fiscal year for the purposes set out in the budget.

Sec. 19. Section 26.13, Code Supplement 2007, is amended to read as follows:

26.13 EARLY RELEASE OF RETAINED FUNDS.

1. For purposes of this section:

a. “Authorized contract representative” means the person chosen by the governmental entity or the department to represent its interests or the person designated in the contract as the party representing the governmental entity’s or the department’s interest regarding administration and oversight of the project.

b. “Department” means the state department of transportation.

c. “Substantially completed” means the first date on which any of the following occurs:

(1) Completion of the public improvement project or the highway, bridge, or culvert project or when the work on the public improvement or the highway, bridge, or culvert project has been substantially completed in general accordance with the terms and provisions of the contract.

(2) The work on the public improvement or on the designated portion is substantially completed in general accordance with the terms of the contract so that the governmental entity or the department can occupy or utilize the public improvement or designated portion of the public improvement for its intended purpose. This subparagraph shall not apply to highway, bridge, or culvert projects.

(3) The public improvement project or the highway, bridge, or culvert project is certified as having been substantially completed by either of the following:

(a) The architect or engineer authorized to make such certification.

(b) The authorized contract representative.

(4) The governmental entity or the department is occupying or utilizing the public improvement for its intended purpose. This subparagraph shall not apply to highway, bridge, or culvert projects.

2. Payments made by a governmental entity or the state department of transportation for the construction of public improvements and highway, bridge, or culvert projects shall be made in accordance with the provisions of chapter 573, except as provided in this section. For purposes of this section, “department” means the state department of transportation.;

1. a. At any time after all or any part of the work on the public improvement or highway, bridge, or culvert project is substantially completed, the contractor may request the release of all or part of the retained funds owed. The request shall be accompanied by a sworn statement of the contractor that, ten calendar days prior to filing the request, notice was given as required by subsection 7 paragraphs “f” and “g” to all known subcontractors, sub-subcontractors, and suppliers.

2. b. Except as provided under subsection 3 paragraph “c”, upon receipt of the request, the governmental entity or the department shall release all or part of the retained funds. Retained funds that are approved as payable shall be paid at the time of the next monthly payment or within thirty days, whichever is sooner. If partial retained funds are released pursuant to a

contractor's request, no retained funds shall be subsequently held based on that portion of the work. If within thirty days of when payment becomes due the governmental entity or the department does not release the retained funds due, interest shall accrue on the amount of retained funds at the rate of interest that is calculated as the prime rate plus one percent per year as of the day interest begins to accrue until the amount is paid.

3. ~~c.~~ If labor and materials are yet to be provided at the time the request for the release of the retained funds is made, an amount equal to two hundred percent of the value of the labor or materials yet to be provided, as determined by the governmental entity's or the department's authorized contract representative, may be withheld until such labor or materials are provided. For purposes of this section, "authorized contract representative" means the person chosen by the governmental entity or the department to represent its interests or the person designated in the contract as the party representing the governmental entity's or the department's interest regarding administration and oversight of the project.

4. ~~d.~~ An itemization of the labor or materials yet to be provided, or the reason that the request for release of retained funds is denied, shall be provided to the contractor in writing within thirty calendar days of the receipt of the request for release of retained funds.

5. For purposes of this section, "substantially completed" means the first date on which any of the following occurs:

a. Completion of the public improvement project or the highway, bridge, or culvert project or when the work on the public improvement or the highway, bridge, or culvert project has been substantially completed in general accordance with the terms and provisions of the contract.

b. The work on the public improvement or on the designated portion is substantially completed in general accordance with the terms of the contract so that the governmental entity or the department can occupy or utilize the public improvement or designated portion of the public improvement for its intended purpose. This paragraph shall not apply to highway, bridge, or culvert projects.

c. The public improvement project or the highway, bridge, or culvert project is certified as having been substantially completed by either of the following:

- (1) The architect or engineer authorized to make such certification.
- (2) The authorized contract representative.

d. The governmental entity or the department is occupying or utilizing the public improvement for its intended purpose. This paragraph shall not apply to highway, bridge, or culvert projects.

6. ~~e.~~ The contractor shall release retained funds to the subcontractor or subcontractors in the same manner as retained funds are released to the contractor by the governmental entity or the department. Each subcontractor shall pass through to each lower tier subcontractor all retained fund payments from the contractor.

7. ~~f.~~ Prior to applying for release of retained funds, the contractor shall send a notice to all known subcontractors, sub-subcontractors, and suppliers that provided labor or materials for the public improvement project or the highway, bridge, or culvert project.

~~g.~~ The notice shall be substantially similar to the following:

"NOTICE OF CONTRACTOR'S
REQUEST FOR EARLY RELEASE
OF RETAINED FUNDS

You are hereby notified that [name of contractor] will be requesting an early release of funds on a public improvement project or a highway, bridge, or culvert project designated as [name of project] for which you have or may have provided labor or materials. The request will be made pursuant to Iowa Code section 26.13. The request may be filed with the [name of governmental entity or department] after ten calendar days from the date of this notice. The purpose of the request is to have [name of governmental entity or department] release and pay funds for all work that has been performed and charged to [name of governmental entity or department] as of the date of this notice. This notice is provided in accordance with Iowa Code section 26.13."

Sec. 20. Section 35A.5, subsection 10, Code Supplement 2007, is amended to read as follows:

10. Establish and operate a state veterans cemetery and make application to the government of the United States or any subdivision, agency, or instrumentality thereof, for funds for the purpose of establishing such a cemetery.

a. The state ~~department~~ may enter into agreements with any subdivision of the state for assistance in operating the cemetery.

b. The state shall own the land on which the cemetery is located.

c. The department shall have the authority to accept federal grant funds, funding from state subdivisions, donations from private sources, and federal "plot allowance" payments.

d. The department through the director shall have the authority to accept suitable cemetery land, in accordance with federal veterans cemetery grant guidelines, from the federal government, state government, state subdivisions, private sources, and any other source wishing to transfer land for use as a veterans cemetery.

e. The department may lease or use property received pursuant to this subsection for any purpose so long as such leasing or use does not interfere with the use of the property for cemetery purposes and is not contrary to federal or state guidelines.

f. All funds received pursuant to this subsection, including lease payments or funds generated from any activity engaged in on any property accepted pursuant to this subsection, shall be deposited into an account dedicated to the establishment, operation, and maintenance of a veterans cemetery and these funds shall be expended only for those purposes.

g. Notwithstanding section 8.33, any moneys in the account for a state veterans cemetery shall not revert and, notwithstanding section 12C.7, subsection 2, interest or earnings on moneys deposited in the fund shall be credited to the account.

Sec. 21. Section 35A.8, subsection 5, paragraph a, Code Supplement 2007, is amended to read as follows:

a. The executive director shall provide for the administration of the bonus authorized in this subsection. ~~The commission~~ ~~department~~ shall adopt rules, pursuant to chapter 17A, as necessary to administer this subsection including but not limited to application procedures, investigation, approval or disapproval, and payment of claims.

Sec. 22. Section 46.16, subsection 1, Code 2007, is amended to read as follows:

1. Subject to sections 602.1610 and 602.1612 and to removal for cause:

a. The initial term of office of judges of the supreme court, court of appeals and district court shall be for one year after appointment and until January 1 following the next judicial election after expiration of such year; and

b. The regular term of office of judges of the supreme court retained at a judicial election shall be eight years, and of judges of the court of appeals and district court so retained shall be six years, from the expiration of their initial or previous regular term as the case may be.

~~For the purpose of initial appointments to the court of appeals, two of the judges appointed shall serve an irregular term ending December 31 of the fourth year after expiration of the initial term prescribed in subsection 1 and two of the judges appointed shall serve an irregular term ending December 31 of the fifth year after expiration of the initial term prescribed in subsection 1. Expiration of irregular terms shall be deemed expiration of regular terms for all purposes.~~

Sec. 23. Section 68A.503, subsection 2, paragraph a, Code Supplement 2007, is amended to read as follows:

a. Except as provided in subsection 3, it is unlawful for a member of a committee, or its employee or representative, except a ballot issue committee, or for a candidate for office or the representative of the candidate, to solicit, request, or knowingly receive from an insurance company, savings and loan association, bank, credit union, or corporation organized pursuant to the laws of this state, the United States, or any other state, territory, or foreign country,

whether for profit or not, or its officer, agent, or representative, any money, property, or thing of value belonging to the insurance company, savings and loan association, bank, credit union, or corporation for campaign expenses, or to expressly advocate that the vote of an elector be used to nominate, elect, or defeat a candidate for public office.

Sec. 24. Section 68B.4A, subsection 4, Code 2007, is amended to read as follows:

4. The selling of any goods or services by the legislative employee does not cause the ~~official~~ employee to sell goods or services to the general assembly on behalf of the individual, association, or corporation.

Sec. 25. Section 80B.11, subsection 1, paragraph c, subparagraph (2), Code Supplement 2007, is amended to read as follows:

(2) In-service training under this paragraph "c" shall include the requirement that ~~by December 31, 1994,~~ all law enforcement officers complete a course on investigation, identification, and reporting of public offenses based on the race, color, religion, ancestry, national origin, political affiliation, sex, sexual orientation, age, or disability of the victim. The director shall consult with the civil rights commission, the department of public safety, and the prosecuting attorneys training coordinator in developing the requirements for this course and may contract with outside providers for this course.

Sec. 26. Section 86.2, Code 2007, is amended to read as follows:

86.2 APPOINTMENT OF DEPUTIES ~~AND ASSISTANTS~~.

1. The commissioner may appoint:

1. a. Chief deputy workers' compensation commissioners for whose acts the commissioner is responsible, who are exempt from the merit system provisions of chapter 8A, subchapter IV, and who shall serve at the pleasure of the commissioner.

2. b. Deputy workers' compensation commissioners for whose acts the commissioner is responsible and who shall serve at the pleasure of the commissioner.

2. All chief deputies and deputies must be lawyers admitted to practice in this state.

3. The commissioner may appoint one or more chief deputy workers' compensation commissioners and one or more ~~assistant~~ deputy workers' compensation commissioners. A chief deputy workers' compensation commissioner or ~~an assistant a~~ deputy workers' compensation commissioner shall perform such additional administrative responsibilities as are deemed reasonably necessary and assigned by the commissioner.

Sec. 27. Section 87.1, subsection 1, Code Supplement 2007, is amended to read as follows:

1. Every employer subject to the provisions of this chapter and chapters 85, 85A, 85B, and 86, unless relieved ~~therefrom~~ as hereinafter provided from the requirements imposed under this chapter and chapters 85, 85A, 85B, and 86, shall insure the employer's liability ~~thereunder~~ under this chapter and chapters 85, 85A, 85B, and 86 in some corporation, association, or organization approved by the commissioner of insurance.

Sec. 28. Section 87.22, Code 2007, is amended to read as follows:

87.22 CORPORATE OFFICER EXCLUSION FROM WORKERS' COMPENSATION OR EMPLOYERS' LIABILITY COVERAGE.

1. The president, vice president, secretary, and treasurer of a corporation other than a family farm corporation, but not to exceed four officers per corporation, may exclude themselves from workers' compensation coverage under chapters 85, 85A, and 85B by knowingly and voluntarily rejecting workers' compensation coverage by signing, and attaching to the workers' compensation or employers' liability policy a written rejection, or if such a policy is not issued, by signing a written rejection which is witnessed by two disinterested individuals who are not, formally or informally, affiliated with the corporation and which is filed by the corporation with the workers' compensation commissioner₂.

2. The written rejection shall be in substantially the following form:

REJECTION OF WORKERS' COMPENSATION OR EMPLOYERS' LIABILITY COVERAGE

I understand that by signing this statement I reject the coverage of chapters 85, 85A, and 85B of the Code of Iowa relating to workers' compensation.

I understand that my rejection of the coverage of chapters 85, 85A, and 85B is not a waiver of any rights or remedies available to me or to others on my behalf in a civil action related to personal injuries sustained by me arising out of and in the course of my employment with the corporation.

I also understand that by signing this statement and checking alternative (1) below I reject employers' liability coverage for bodily injuries or death sustained by me arising out of and in the course of my employment with the corporation. (Check either alternative (1) or (2):)

- (1) I reject the employers' liability coverage.
(2) I decline to reject the employers' liability coverage.

Signed
Corporate Office
Date
City, County, State
of Residence

Witness
Witness

I also understand that the signing of this statement and checking of alternative (1) below by an authorized agent of the corporation rejects for the corporation employers' liability coverage for bodily injuries or death sustained by me arising out of and in the course of my employment with the corporation. (Check either alternative (1) or (2):)

- (1) The corporation rejects the employers' liability coverage.
(2) The corporation declines to reject the employers' liability coverage.

Signed
Relationship to Corporation
Date
City, County, State
of Residence

Witness
Witness

3. The rejection of workers' compensation coverage is not enforceable if it is required as a condition of employment.

4. A corporate officer who signs a written rejection filed with the workers' compensation commissioner may terminate the rejection by signing a written notice of termination which is witnessed by two disinterested individuals, who are not, formally or informally, affiliated with the corporation and which is filed by the corporation with the workers' compensation commissioner.

Sec. 29. Section 89.7A, subsection 1, Code Supplement 2007, is amended to read as follows:

1. The commissioner shall issue a certificate of inspection valid for the period specified in section 89.3 after the payment of a fee, the filing of an inspection report, and the correction or other appropriate resolution of any defects identified in the inspection report. The certificate shall be posted at a place near the location of the equipment.

Sec. 30. Section 97B.49G, subsection 2, paragraph b, Code 2007, is amended to read as follows:

b. (1) Effective July 1, 1978, for each member who retired from the retirement system prior to January 1, 1976, the amount of regular monthly retirement allowance attributable to mem-

bership service and prior service that was payable to the member for June 1978 is increased as follows:

(1) ~~(a)~~ For the first ten years of service, fifty cents per month for each complete year of service.

(2) ~~(b)~~ For the eleventh through the twentieth years of service, two dollars per month for each complete year of service.

(3) ~~(c)~~ For the twenty-first through the thirtieth years of service, three dollars per month for each complete year of service.

~~(2)~~ Effective July 1, 1979, the increases granted to members under this ~~subparagraph paragraph~~ paragraph "b" shall be paid to contingent annuitants and to beneficiaries.

Sec. 31. Section 100B.22, subsection 1, paragraph b, Code Supplement 2007, is amended to read as follows:

b. The public agencies named in paragraph "a", ~~subparagraphs (1) through (10)~~, shall, in conjunction with the bureau, coordinate fire service training programs as described in section 100B.6 at each training center.

Sec. 32. Section 100B.22, subsection 2, paragraph a, Code Supplement 2007, is amended to read as follows:

a. A lead public agency listed in subsection 1, paragraph "a", ~~subparagraphs (1) through (11)~~, shall submit an application to the bureau in order to be eligible to receive a state appropriation for the agency's training center. The bureau shall prescribe the form of the application and, on or before August 15, 2006, shall provide such application to each lead public agency.

Sec. 33. Section 100C.10, subsection 4, Code Supplement 2007, is amended to read as follows:

4. The commissioner shall initially appoint two members for two-year terms, two members for four-year terms, and three members for six-year terms. Following the expiration of the terms of initially appointed members, each term thereafter shall be for a period of six years. No member shall serve more than two consecutive terms. ~~Of the appointments to new positions on the board which take effect July 1, 2007, the commissioner shall make the initial appointments for two, four, or six years, at the commissioner's discretion, so that the terms of no more than four board members shall expire at the same time.~~ If a position on the board becomes vacant prior to the expiration of a member's term, the member appointed to the vacancy shall serve the balance of the unexpired term.

Sec. 34. Section 103.6, subsection 2, unnumbered paragraph 1, Code Supplement 2007, is amended to read as follows:

Revoke, suspend, or refuse to renew any license granted pursuant to this chapter when the licensee does any of the following:

Sec. 35. Section 103.22, subsection 10, Code Supplement 2007, is amended to read as follows:

10. Apply to a person performing alarm system installations pursuant to section 103.14 or to a person who is engaged in the design, installation, erection, repair, maintenance, or alteration of class two or class three remote control, signaling, or power-limited circuits, optical fiber cables or other cabling, or communications circuits, including raceways, as defined in the national electrical code for voice, video, audio, and data signals in commercial or residential premises.

Sec. 36. Section 103A.21, subsection 2, Code Supplement 2007, is amended to read as follows:

2. Violation of this chapter shall not impose any disability upon or affect or impair the credibility as a witness, or otherwise, of any person.

~~Violations of this section shall be simple misdemeanors.~~

Sec. 37. Section 135.20, subsection 2, Code Supplement 2007, is amended to read as follows:

2. The information to be distributed shall be determined by the department by rule, in consultation with the department of veterans affairs. The department shall cooperate with the department of veterans affairs regarding distribution of the information to the veterans home, the county commissions of veteran affairs, veterans hospitals, and other appropriate points of distribution. The information shall, at a minimum, contain statements indicating that:

a. The federal department of veterans affairs estimates a hepatitis C infection rate in veterans more than three times higher than for the general population.

b. The infection rate for Vietnam veterans is estimated to be even higher than for other veterans groups.

c. The disease is caused by a bloodborne virus readily transmitted during combat and combat-related emergency medical treatment.

d. Many veterans currently carrying the virus were infected prior to the development of medical screening tests.

e. The hepatitis C virus often resolves into a chronic infection without symptoms for ten to thirty years before signs of resultant liver disease appear.

f. This unusually long latency period makes it difficult to connect current symptoms with an infection that may have actually been contracted during military service decades ago.

g. The information shall also present treatment options and shall specify a procedure to be followed for veterans desiring a medical consultation for screening and treatment purposes. ~~The department shall cooperate with the department of veterans affairs regarding distribution of the information to the veterans home, the county commissions of veteran affairs, veterans hospitals, and other appropriate points of distribution.~~

Sec. 38. Section 172B.4, subsection 3, Code 2007, is amended to read as follows:

3. LAW ENFORCEMENT OFFICER.

a. A law enforcement officer, upon requesting and receiving a transportation certificate, shall retain a copy of the certificate and shall submit the certificate to the law enforcement agency by which the officer is employed.

b. The law enforcement officer shall give to the person transporting livestock, in a form prescribed by the commissioner of public safety or the commissioner's designee, a receipt for the certificate given to the officer. However, a The commissioner of public safety may authorize the use of any method of giving receipt, including endorsement by the officer on the certificate retained by the person transporting livestock. The receipt shall make the law enforcement officer issuing the receipt identifiable by other law enforcement officers.

c. A law enforcement officer shall not retain a copy of the certificate if the person transporting livestock has a receipt issued by another law enforcement officer.

~~The commissioner of public safety may authorize the use of any method of giving receipt, including endorsement by the officer on the certificate retained by the person transporting livestock. The receipt shall make the law enforcement officer issuing the receipt identifiable by other law enforcement officers.~~

Sec. 39. Section 175.19, subsections 2 and 5, Code 2007, are amended to read as follows:

2. a. The authority or any trustee appointed under the indenture under which the bonds are issued may, but upon written request of the holders of twenty-five percent in aggregate principal amount of the issue of bonds or notes then outstanding shall:

a. (1) Enforce all rights of the bondholders or noteholders including the right to require the authority to carry out its agreements with the holders and to perform its duties under this chapter.

b. (2) Bring suit upon the bonds or notes.

c. (3) By action require the authority to account as if it were the trustee of an express trust for the holders.

d. (4) By action enjoin any acts or things which are unlawful or in violation of the rights of the holders.

e. ~~(5) Declare all the bonds or notes due and payable and if all defaults are made good then with the consent of the holders of twenty-five percent of the aggregate principal amount of the issue of bonds or notes then outstanding, annul the declaration and its consequences.~~

~~b. The bondholders or noteholders may, to the extent provided in the resolution to which the bonds or notes were issued or in its agreement with the authority, enforce any of the remedies in paragraph "a", subparagraphs (1) through (5), or the remedies provided in such proceedings or agreements for and on their own behalf.~~

5. The district court has jurisdiction of any action by the trustee on behalf of bondholders or noteholders. The venue of the action shall be in the county in which the principal office of the authority is located.

~~The bondholders or noteholders may, to the extent provided in the resolution to which the bonds or notes were issued or in its agreement with the authority, enforce any of the remedies in paragraphs "a" to "e" or the remedies provided in such proceedings or agreements for and on their own behalf.~~

Sec. 40. Section 185.3, subsection 1, Code 2007, is amended to read as follows:

1. a. The board shall consist of directors who are producers residing in Iowa at the time of the election. The directors shall ~~include all of the following~~ be elected as follows:

~~a. (1) Four producers who are directors shall be elected from producers from the state at large.~~

~~b. (2) One producer who is director per district shall be elected from producers from each district in the state. However, two producers directors shall be elected from the producers from a district producing if more than an average of twenty-five million bushels of soybeans were produced in that district in the three previous years prior to the election.~~

~~b.~~ A producer shall be entitled to vote in the election regardless of whether the producer is a member of the association.

Sec. 41. Section 231D.5, subsection 2, Code Supplement 2007, is amended to read as follows:

2. In the case of an application by an existing certificate holder for a new or newly acquired adult day services program, ~~the department may deny certification on the basis of~~ continuing or repeated failure of the certificate holder to operate any previously certified adult day services program in compliance with this chapter or of the rules adopted pursuant to this chapter.

Sec. 42. Section 256.11, subsection 5, paragraph b, Code Supplement 2007, is amended to read as follows:

b. Five units of the social studies including instruction in voting statutes and procedures, voter registration requirements, the use of paper ballots and voting machines in the election process, and the method of acquiring and casting an absentee ballot. All students shall complete a minimum of one-half unit of United States government and one unit of United States history. The one-half unit of United States government shall include the voting procedure as described in this lettered paragraph and section 280.9A. The government instruction shall also include a study of the Constitution of the United States and the Bill of Rights contained in the Constitution and an assessment of a student's knowledge of the Constitution and the Bill of Rights.

~~The county auditor, upon request and at a site chosen by the county auditor, shall make available to schools within the county voting machines or sample ballots that are generally used within the county, at times when these machines or sample ballots are not in use for their recognized purpose.~~

Sec. 43. Section 261A.4, subsection 13, Code 2007, is amended to read as follows:

13. "Loan funding deposit" means money or other property that is deposited:

a. by By an institution with the authority or a trustee,

b. In amounts deemed necessary by the authority as a condition for the institution's participation in the authority's programs.

~~c.~~ ~~For~~ For the purpose of one or more of the following:

- ~~a.~~ (1) Providing security for obligations.
- ~~b.~~ (2) Funding a default reserve fund.
- ~~c.~~ (3) Acquiring default insurance.
- ~~d.~~ (4) Defraying costs of the authority.

~~The moneys or properties shall be in amounts deemed necessary by the authority as a condition for the institution's participation in the authority's programs.~~

Sec. 44. Section 272.9A, subsection 1, Code Supplement 2007, is amended to read as follows:

1. Beginning July 1, 2007, requirements for administrator licensure beyond an initial license shall include completion of a beginning administrator mentoring and induction program ~~provided by the department pursuant to section 284A.5, subsection 2,~~ and demonstration of competence on the administrator standards adopted pursuant to section 284A.3.

Sec. 45. Section 280.9A, Code 2007, is amended by adding the following new subsection: NEW SUBSECTION. 1A. The county auditor, upon request and at a site chosen by the county auditor, shall make available to schools within the county voting machines or sample ballots that are generally used within the county, at times when these machines or sample ballots are not in use for their recognized purpose.

Sec. 46. Section 341A.12, unnumbered paragraph 1, Code Supplement 2007, is amended to read as follows:

No person in the classified civil service who has been permanently appointed or inducted into civil service under provisions of this chapter shall be removed, suspended, or demoted except for cause, and only upon written accusation of the county sheriff, which shall be served upon the accused, and a duplicate filed with the commission. Any person so removed, suspended, or reduced in rank or grade may, within ten days after presentation to the person of the order of removal, suspension or reduction, appeal to the commission from such order. The commission shall, within two weeks from the filing of such appeal, hold a hearing thereon, and fully hear and determine the matter, and either affirm, modify, or revoke such order. The appellant shall be entitled to ~~appeal personally~~ appear in person, produce evidence, and to have counsel. The finding and decision of the commission shall be certified to the sheriff, and shall be enforced and followed by the sheriff, but under no condition shall the employee who has appealed to the commission be permanently removed, suspended, or reduced in rank until such finding and decision of the commission is certified to the sheriff pursuant to the rules of civil procedure.

Sec. 47. Section 357A.11, subsection 13, Code Supplement 2007, is amended to read as follows:

13. In addition to all other powers granted to the board, the board may sell, convey, merge, or otherwise dispose of all or any portion of the real property or personal property of the district and all or any portion of the district's right to provide water or wastewater service to an area in order that another service provider permitted by the department of natural resources pursuant to chapter 455B may assume any or all of the district's duties and obligations or that the district may be dissolved.

a. If the district is to be dissolved, the board shall file a notice of dissolution with the auditor of the county or counties in which the district is located.

b. Prior to such sale, conveyance, merger, or disposition by the board that includes the relinquishment of the district's right to provide service to an area, the board shall publish notice of a public hearing not less than four nor more than twenty days before the date fixed for the hearing in a newspaper of general circulation in the area for which the board seeks to relinquish service. The board shall mail notice of a public hearing to the district's members in the area for which the board seeks to relinquish service not less than fourteen days prior to such

public hearing. A public hearing is not required when the board relinquishes the district's right to service an area within the corporate limits of a city if the city will provide service in compliance with the city's annexation plan.

c. After hearing or if none is required, the board may adopt a resolution approving the sale, conveyance, merger, or disposition; however, the board shall provide for the continuation of water or wastewater service to the area by another service provider immediately following such sale, conveyance, merger, or disposition.

~~This chapter and chapter 384, as it applies to rural water districts, shall not be construed to mean that the real property of any rural water subscriber shall be used as security for any debts of a rural water district. However, the failure to pay water rates or charges by a subscriber may result in a lien being attached against the premises served upon certification to the county treasurer that the rate or charges are due.~~

Sec. 48. NEW SECTION. 357A.25 PROPERTY NOT SECURITY FOR DEBT.

This chapter and chapter 384, as it applies to rural water districts, shall not be construed to mean that the real property of any rural water subscriber shall be used as security for any debts of a rural water district. However, the failure to pay water rates or charges by a subscriber may result in a lien being attached against the premises served upon certification to the county treasurer that the rate or charges are due.

Sec. 49. Section 422.11T, Code Supplement 2007, is amended to read as follows:

422.11T FILM QUALIFIED EXPENDITURE TAX CREDIT.

The taxes imposed under this division, less the ~~credits~~ credit allowed under ~~sections~~ section 422.12 and ~~422.12B~~, shall be reduced by a qualified expenditure tax credit authorized pursuant to section 15.393, subsection 2, paragraph "a".

Sec. 50. Section 422.11U, Code Supplement 2007, is amended to read as follows:

422.11U FILM INVESTMENT TAX CREDIT.

The taxes imposed under this division, less the ~~credits~~ credit allowed under ~~sections~~ section 422.12 and ~~422.12B~~, shall be reduced by an investment tax credit authorized pursuant to section 15.393, subsection 2, paragraph "b".

Sec. 51. Section 434.16, Code 2007, is amended to read as follows:

434.16 ASSESSMENT OF SLEEPING AND DINING CARS.

The director of revenue shall, at the time of the assessment of other railway property for taxation, assess for taxation the average number of sleeping and dining cars as provided in section 434.6 so used by such corporation each month and the assessed value of said cars shall bear the same proportion to the entire value thereof that the monthly average number of miles such cars have been run or operated within the state shall bear to the monthly average number of miles such cars have been used or operated within and without the state. Such valuation shall be in the same ratio as that of the property of individuals, and shall be added to the assessed valuation of the corporation, fixed under ~~the preceding sections~~ section 434.15.

Sec. 52. Section 455B.131, subsection 9, Code Supplement 2007, is amended to read as follows:

9. "Person" means an individual, partnership, ~~copartnership~~, cooperative, firm, company, public or private corporation, political subdivision, agency of the state, trust, estate, joint stock company, an agency or department of the federal government or any other legal entity, or a legal representative, agent, officer, employee or assigns of such entities.

Sec. 53. Section 462A.2, subsection 22, Code Supplement 2007, is amended to read as follows:

22. "Navigable waters" means all lakes, rivers, and streams, which can support a vessel capable of carrying one or more persons during a total of six months ~~period~~ in one out of every ten years.

Sec. 54. Section 484B.4, subsection 1, Code 2007, is amended to read as follows:

1. A person who owns or controls by lease or otherwise for five or more years, a contiguous tract of land having an area of not less than three hundred twenty acres, and who desires to establish a hunting preserve, to propagate and sell game birds and their young or unhatched eggs, and shoot game birds and ungulates on the land, under this chapter or the rules of the commission, shall make application to the department for an operator's license. The application shall be made under oath of the applicant or under oath of one of its principal officers if the applicant is an association, ~~or corporation, or copartnership~~. Under the authority of this license, any property or facilities to be used for propagating, holding, processing, or pasturing of game birds or ungulates shall not be required to be contained within the contiguous land area used for hunting purposes. The application shall be accompanied by an operator's license fee of two hundred dollars.

Sec. 55. Section 490.624, subsection 2, unnumbered paragraph 1, Code Supplement 2007, is amended to read as follows:

The terms and conditions of such rights, options, or warrants, including those outstanding on ~~the effective date of this section July 1, 1989~~, may include, without limitation, restrictions, or conditions that do any of the following:

Sec. 56. Section 524.212, Code Supplement 2007, is amended to read as follows:

524.212 PROHIBITION AGAINST DISCLOSURE OF REGULATORY INFORMATION.

The superintendent, members of the state banking council, general counsel, examiners, or other employees of the banking division shall not disclose, in any manner, to any person other than the person examined and those regulatory agencies referred to in section 524.217, subsection 2, any information relating specifically to the supervision and regulation of any state bank, persons subject to the provisions of chapter 533A, 533C, 536, or 536A, any affiliate of any state bank, or an affiliate of a person subject to the provisions of chapter 533A, 533C, 536, or 536A, except when ordered to do so by a court of competent jurisdiction and then only in those instances referred to in section 524.215, subsection 2, paragraphs "a", "b", "c", ~~and "e"~~, and "f".

Sec. 57. Section 533.214, Code Supplement 2007, is amended to read as follows:

533.214 CENTRAL CREDIT UNIONS.

Credit unions known as central credit unions may exist for the purpose of serving directors, officers, and employees of credit unions, members of dissolved and ~~members of other existing~~ credit unions, ~~directors, officers, and employees~~ of credit unions, employee groups as described in section 533.301, subsection 13, and such other persons as the superintendent approves.

Sec. 58. Section 537A.4, unnumbered paragraph 2, Code 2007, 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 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. 59. Section 542.4, subsection 1, Code 2007, is amended to read as follows:

1. An Iowa accountancy examining board is created within the professional licensing and regulation bureau of the banking division of the department of commerce to administer and enforce this chapter. The board shall consist of eight members, appointed by the governor and

subject to senate confirmation, all of whom shall be residents of this state. Five of the eight members shall be holders of certificates issued under section 542.6, one member shall be the holder of a license issued under section 542.8, and two shall not be certified public accountants or licensed public accountants and shall represent the general public. At least three of the holders of certificates issued under section 542.6 shall also be qualified to supervise attest services as provided in section 542.7. A certified or licensed member of the board shall be actively engaged in practice as a certified public accountant or as a licensed public accountant and shall have been so engaged for five years preceding appointment, the last two of which shall have been in this state. Professional associations or societies composed of certified public accountants or licensed public accountants may recommend the names of potential board members to the governor. However, the governor is not bound by the recommendations. A board member is not required to be a member of any professional association or society composed of certified public accountants or licensed public accountants. The term of each member of the board shall be three years, as designated by the governor, and appointments to the board are subject to the requirements of sections 69.16, 69.16A, and 69.19. ~~Members of the board appointed and serving pursuant to chapter 542C, Code 2001, on July 1, 2002, shall serve out the terms for which they were appointed.~~ Vacancies occurring during a term shall be filled by appointment by the governor for the unexpired term. Upon the expiration of the member's term of office, a member shall continue to serve until a successor shall have been appointed and taken office. The public members of the board shall be allowed to participate in administrative, clerical, or ministerial functions incident to giving the examinations, but shall not determine the content or determine the correctness of the answers. The licensed public accountant member shall not determine the content of the certified public accountant examination or determine the correctness of the answers. Any member of the board whose certificate under section 542.6 or license under section 542.8 is revoked or suspended shall automatically cease to be a member of the board, and the governor may, after a hearing, remove any member of the board for neglect of duty or other just cause. A person who has served three successive complete terms shall not be eligible for reappointment, but appointment to fill an unexpired term shall not be considered a complete term for this purpose.

Sec. 60. Section 542.5, subsection 8, Code 2007, is amended to read as follows:

8. An applicant must pass an examination which shall be offered at least twice per year and which shall test the applicant's knowledge of the subjects of accounting and auditing, and such other related subjects as the board may specify by rule, including but not limited to business law and taxation. The examination shall be held at a time determined by the board and may be changed from time to time. The board shall prescribe by rule the methods of applying for and conducting the examination, including methods for grading and determining a passing grade required of an applicant for a certificate. However, the board, to the extent possible, shall ensure the examination, grading of the examination, and the passing grades are uniform with those applicable in all other states. The board may make such use of all or any part of a nationally recognized uniform certified public accountant examination and advisory grading service, and may contract with third parties to perform such administrative services with respect to the examination as it deems appropriate to perform the duties of the board with respect to examination. ~~Except as otherwise provided under this section, a person who has partially passed the examination required by this subsection by passing one or more subjects prior to December 31, 2000, has until December 31, 2003, to successfully complete the examination process and qualify for a certificate under the educational requirements in effect prior to December 31, 2000.~~

Sec. 61. Section 554.2505, subsection 2, Code Supplement 2007, is amended to read as follows:

2. When shipment by the seller with reservation of a security interest is in violation of the contract for sale it constitutes an improper contract for transportation ~~within the preceding~~ under section 554.2504 but impairs neither the rights given to the buyer by shipment and iden-

tification of the goods to the contract nor the seller's powers as a holder of a negotiable document of title.

Sec. 62. Section 564.3, Code 2007, is amended to read as follows:

564.3 FOOTWAY PEDESTRIAN RIGHTS-OF-WAY OR EASEMENTS.

~~No right of footway, except claimed in connection with a right to pass with carriages, An easement or right-of-way for pedestrian traffic shall not be acquired by prescription or adverse use for any length of time except when claimed in connection with an easement or right-of-way to permit passage of public or private vehicular traffic.~~

Sec. 63. Section 600A.2, subsections 6 and 8, Code 2007, are amended to read as follows:

6. "Custodian" means a stepparent or a relative within the fourth degree of consanguinity to a minor child who has assumed responsibility for that child, a person who has accepted a release of custody, or a person appointed by a court or juvenile court having jurisdiction over a child. A "custodian" has the rights and duties provided in section 600A.2A. ~~The rights and duties of a custodian with respect to a child shall be as follows:~~

- ~~a. To maintain or transfer to another the physical possession of that child.~~
- ~~b. To protect, train, and discipline that child.~~
- ~~c. To provide food, clothing, housing, and ordinary medical care for that child.~~
- ~~d. To consent to emergency medical care, including surgery.~~
- ~~e. To sign a release of medical information to a health professional.~~

~~All rights and duties of a custodian shall be subject to any residual rights and duties remaining in a parent or guardian.~~

8. "Guardian" means a person who is not the parent of a minor child, but who has been appointed by a court or juvenile court having jurisdiction over the minor child to make important decisions which have permanent effect on the life and development of that child and to promote the general welfare of that child. A guardian has the rights and duties provided in section 600A.2B. A guardian may be a court or a juvenile court. Guardian does not mean conservator, as defined in section 633.3, although a person who is appointed to be a guardian may also be appointed to be a conservator.

~~Unless otherwise enlarged or circumscribed by a court or juvenile court having jurisdiction over the minor child or by operation of law, the rights and duties of a guardian with respect to a minor child shall be as follows:~~

- ~~a. To consent to marriage, enlistment in the armed forces of the United States, or medical, psychiatric or surgical treatment.~~
- ~~b. To serve as custodian, unless another person has been appointed custodian.~~
- ~~c. To make reasonable visitations if the guardian does not have physical possession or custody of the minor child.~~
- ~~d. To consent to adoption and to make any other decision that the parents could have made when the parent-child relationship existed.~~

Sec. 64. NEW SECTION. 600A.2A RIGHTS AND DUTIES OF CUSTODIAN.

1. The rights and duties of a custodian with respect to a child shall be as follows:

- a. To maintain or transfer to another the physical possession of that child.
- b. To protect, train, and discipline that child.
- c. To provide food, clothing, housing, and ordinary medical care for that child.
- d. To consent to emergency medical care, including surgery.
- e. To sign a release of medical information to a health professional.

2. All rights and duties of a custodian shall be subject to any residual rights and duties remaining in a parent or guardian.

Sec. 65. NEW SECTION. 600A.2B RIGHTS AND DUTIES OF GUARDIAN.

Unless otherwise enlarged or circumscribed by a court or juvenile court having jurisdiction over the minor child or by operation of law, the rights and duties of a guardian with respect to a minor child shall be as follows:

1. To consent to marriage, enlistment in the armed forces of the United States, or medical, psychiatric, or surgical treatment.
2. To serve as custodian, unless another person has been appointed custodian.
3. To make reasonable visitations if the guardian does not have physical possession or custody of the minor child.
4. To consent to adoption and to make any other decision that the parents could have made when the parent-child relationship existed.

Sec. 66. Section 615.1, Code 2007, is amended to read as follows:

615.1 EXECUTION ON CERTAIN JUDGMENTS PROHIBITED.

1. A After the expiration of a period of two years from the date of entry of judgment, exclusive of any time during which execution on the judgment was stayed pending a bankruptcy action, a judgment entered in an action for either of the following actions the foreclosure of a real estate mortgage, deed of trust, or real estate contract upon property which at the time of judgment is either used for an agricultural purpose as defined in section 535.13 or a one-family or two-family dwelling which is the residence of the mortgagor, or in any action on a claim for rent shall be null and void, all liens shall be extinguished, and no execution shall be issued for any purpose other than as a setoff or counterclaim after the expiration of a period of two years, exclusive of any time during which execution on the judgment was stayed pending a bankruptcy action, from the entry thereof.:

a. An action for the foreclosure of a real estate mortgage, deed of trust, or real estate contract upon property which at the time of judgment is either used for an agricultural purpose as defined in section 535.13 or as a one-family or two-family dwelling which is the residence of the mortgagor.

b. An action on a claim for rent.

2. As used in this section, "mortgagor" means a mortgagor or a borrower executing a deed of trust as provided in chapter 654 or a vendee of a real estate contract.

Sec. 67. Section 622.10, subsection 6, Code Supplement 2007, is amended to read as follows:

6. A qualified school guidance counselor, who has met the certification and accreditation standards of the department of education as provided in section 256.11, subsection 10, is licensed by the board of educational examiners under chapter 272 and who obtains information by reason of the counselor's employment as a qualified school guidance counselor, shall not be allowed, in giving testimony, to disclose any confidential communications properly entrusted to the counselor by a pupil or the pupil's parent or guardian in the counselor's capacity as a qualified school guidance counselor and necessary and proper to enable the counselor to perform the counselor's duties as a qualified school guidance counselor.

Sec. 68. Section 633.113, Code 2007, is amended to read as follows:

633.113 COMMITMENT.

If, upon being served with an order of the court requiring appearance for interrogation, as provided in the preceding sections hereof section 633.112, any person fails to appear in accordance therewith, or if, having appeared, the person refuses to answer any question which the court thinks proper to be put to the person in the course of such examination, or if the person fails to comply with the order of the court requiring the delivery of the property to the fiduciary, the person may be committed to the jail of the county until the person does.

Sec. 69. Section 715A.2A, subsection 2, Code 2007, is amended to read as follows:

2. An employer who establishes that it has complied in good faith with the requirements of 8 U.S.C. § 1324(b) 1324a(b) with respect to the hiring or continued employment of an alien in the United States has established an affirmative defense that the employer has not violated this section.

Sec. 70. Sections 15.221, 15.222, 15.223, 15.224, and 15.225, Code 2007, are repealed.

Sec. 71. Section 327B.6, Code Supplement 2007, is repealed.

DIVISION II
VOLUME I RENUMBERING

Sec. 72. Section 2.14, subsections 1 and 3, Code 2007, are amended to read as follows:

1. a. A standing committee of either house or a subcommittee when authorized by the chairperson of the standing committee, may meet when the general assembly is not in session in the manner provided in this section and upon call pursuant to the rules of the house or senate. In case of vacancy in the chair or in the chairperson's absence, the ranking member shall act as chairperson.

b. A standing committee or subcommittee may act on bills and resolutions in the interim between the first and second regular sessions of a general assembly. A standing committee may also study and draft proposed committee bills. However, unless the subject matter of a study or proposed committee bill has been assigned to a standing committee for study by the general assembly or legislative council, the services of the legislative services agency cannot be utilized.

c. The date, time, and place of any meeting of a standing committee shall, by the person or persons calling the meeting, be reported to and be available to the public in the office of the director of the legislative services agency at least five days prior to the meeting.

d. A standing committee may hold public hearings and receive testimony upon any subject matter within its jurisdiction.

3. Interim studies utilizing the services of the legislative services agency must be authorized by the general assembly or the legislative council. ~~A standing committee may also study and draft proposed committee bills. However, unless the subject matter of a study or proposed committee bill has been assigned to a standing committee for study by the general assembly or legislative council, the services of the legislative services agency cannot be utilized.~~

a. Nonlegislative members shall not serve upon any study committee, unless approved by the legislative council. ~~A standing committee may hold public hearings and receive testimony upon any subject matter within its jurisdiction.~~

b. Nonlegislative members of study committees shall be paid their necessary travel and actual expenses incurred in attending committee or subcommittee meetings for the purposes of the study.

Sec. 73. Section 2.32, Code 2007, is amended to read as follows:

2.32 CONFIRMATION OF APPOINTMENTS — PROCEDURES.

1. The governor shall either make an appointment or file a notice of deferred appointment by March 15 for the following appointments which are subject to confirmation by the senate:

a. An appointment to fill a term beginning on May 1 of that year.

b. An appointment to fill a vacancy, other than as provided for in paragraph "d," existing prior to the convening of the general assembly in regular session in that year.

c. An appointment to fill a vacancy, other than as provided for in paragraph "d," which is known, prior to the convening of the general assembly in regular session, will occur before May 1 of that year.

d. An appointment to fill a vacancy existing in a full-time compensated position on December 15 prior to the convening of the general assembly.

2. The governor shall file by February 1 with the secretary of the senate a list of all the appointment positions requiring gubernatorial action pursuant to subsection 1. The secretary of the senate shall provide the governor a written acknowledgment of the list within five days of its receipt. The senate shall approve the list or request corrections by resolution by February 15.

3. The governor shall submit all appointments requiring confirmation by the senate and notices of deferred appointment to the secretary of the senate who shall provide the governor's office with receipts of submission. Each notice of appointment shall be accompanied by a statement of the appointee's political affiliation. The notice of a deferred appointment shall be filed by the governor with the secretary of the senate and accompanied by a statement of reasons for the deferral.

4. A gubernatorial appointee, whose appointment is subject to confirmation by the senate and who serves at the pleasure of the governor, is subject to reconfirmation by the senate during the regular session of the general assembly convening in January if the appointee will complete the appointee's fourth year in office on or before the following April 30. For the purposes of this section, the submission of an appointee for reconfirmation is deemed the same as the submission of an appointee for confirmation and the procedures of this section regarding confirmation and the consequences of refusal to confirm are the same for reconfirmation.

5. If an appointment subject to senate confirmation is required by statute to be made by an appointing authority other than the governor, the duties assigned under this section to the governor shall be performed by the appointing authority.

2. 6. If a vacancy in a position requiring confirmation by the senate, other than a full-time compensated position, occurs after the convening of the general assembly in regular session, the governor shall, within sixty calendar days after the vacancy occurs, either make an appointment or file a notice of deferred appointment unless the general assembly has adjourned its regular session before the sixty-day period expires. If a vacancy in a full-time compensated position requiring senate confirmation occurs after December 15, the governor shall, within ninety calendar days after the vacancy occurs, make an appointment or file a notice of deferred appointment unless the general assembly has adjourned its regular session before the ninety-day period expires.

3. 7. If an appointment is submitted pursuant to subsection 1, the senate shall by April 15 of that year either approve, disapprove, or by resolution defer consideration of confirmation of the appointment. If an appointment is submitted pursuant to subsection 2 6, the senate shall either approve, disapprove, or by resolution defer consideration of confirmation of the appointment within thirty days after receiving the appointment from the governor. The senate may defer consideration of an appointment until a later time during that session, but the senate shall not adjourn that session until all appointments submitted pursuant to this section before the last thirty days of the session are approved or disapproved. If a nomination is submitted during the last thirty days of the session, the senate may by resolution defer consideration of the appointment until the next regular session of the general assembly and the nomination shall be considered as though made during the legislative interim.

~~Sixty days after a person's appointment has been disapproved by the senate, that person shall not serve in that position as an interim appointment or by holding over in office and the governor shall submit another appointment or file a notice of deferred appointment before the sixty-day period expires.~~

~~4. The governor shall submit all appointments requiring confirmation by the senate and notices of deferred appointment to the secretary of the senate who shall provide the governor's office with receipts of submission. Each notice of appointment shall be accompanied by a statement of the appointee's political affiliation. The notice of a deferred appointment shall be filed by the governor with the secretary of the senate and accompanied by a statement of reasons for the deferral.~~

~~5. 8. The confirmation of every appointment submitted to the senate requires the approval of two-thirds of the members of the senate. The senate shall adopt rules governing the referral of appointments to committees, the reports of committees on appointments, and the confirmation of appointments by the senate.~~

~~6. The confirmation of every appointment submitted to the senate requires the approval of two-thirds of the members of the senate.~~

~~9. A person whose appointment is subject to senate confirmation shall make available to the senate committee to which the appointment is referred, upon the committee's request, a nota-~~

rized statement that the person has filed federal and state income tax returns for the three years immediately preceding the appointment, or a notarized statement of the legal reason for failure to file. If the appointment is to a board, commission, council, or other body empowered to take disciplinary action, all complaints and statements of charges, settlement agreements, findings of fact, and orders pertaining to any disciplinary action taken by that board, commission, council, or body in a contested case against the person whose appointment is being reviewed by the senate shall be made available to the senate committee to which the appointment is referred upon its request.

10. All tax records, complaint files, investigation files, other investigation reports, and other investigative information in the possession of the committee which relate to appointee tax filings or complaints and statements of charges, settlement agreements, findings of fact, and orders from any past disciplinary action in a contested case against the appointee are privileged and confidential and they are not subject to discovery, subpoena, or other means of legal compulsion for their release to a person other than the appointee unless otherwise provided by law.

~~7.~~ The governor shall file by February 1 with the secretary of the senate a list of all the appointment positions requiring gubernatorial action pursuant to subsection 1. The secretary of the senate shall provide the governor a written acknowledgment of the list within five days of its receipt. The senate shall approve the list or request corrections by resolution by February 15.

~~8.~~ A gubernatorial appointee, whose appointment is subject to confirmation by the senate and who serves at the pleasure of the governor, is subject to reconfirmation by the senate during the regular session of the general assembly convening in January if the appointee will complete the appointee's fourth year in office on or before the following April 30. For the purposes of this section, the submission of an appointee for reconfirmation is deemed the same as the submission of an appointee for confirmation and the procedures of this section regarding confirmation and the consequences of refusal to confirm are the same for reconfirmation.

~~9.~~ If an appointment subject to senate confirmation is required by statute to be made by an appointing authority other than the governor, the duties assigned under this section to the governor shall be performed by the appointing authority.

~~11.~~ Sixty days after a person's appointment has been disapproved by the senate, that person shall not serve in that position as an interim appointment or by holding over in office and the governor shall submit another appointment or file a notice of deferred appointment before the sixty-day period expires.

Sec. 74. Section 8.3A, Code 2007, is amended to read as follows:

8.3A CAPITAL PROJECT PLANNING AND BUDGETING — GOVERNOR'S DUTIES.

1. DEFINITIONS. For the purposes of this section:

a. "Capital project" does not include highway and right-of-way projects or airport capital projects undertaken by the state department of transportation and financed from dedicated funds or capital projects funded by nonstate grants, gifts, or contracts obtained at or through state universities, if the projects do not require a commitment of additional state resources for maintenance, operations, or staffing.

A capital project shall not be divided into smaller projects in such a manner as to thwart the intent of this section to provide for the evaluation of a capital project whose cost cumulatively equals or exceeds two hundred fifty thousand dollars.

b. "Facility" means a distinct parcel of land or a building used by the state or a state agency for a specific purpose.

c. "State agency" means any executive, judicial, or legislative department, commission, board, institution, division, bureau, office, agency, or other entity of state government.

2. DUTIES. The governor shall:

a. Develop criteria for the evaluation of proposed capital projects which shall include but not be limited to the following:

- (1) Fiscal impacts on costs and revenues.
- (2) Health and safety effects.

- (3) Community economic effects.
 - (4) Environmental, aesthetic, and social effects.
 - (5) Amount of disruption and inconvenience caused by the capital project.
 - (6) Distributional effects.
 - (7) Feasibility, including public support and project readiness.
 - (8) Implications of deferring the project.
 - (9) Amount of uncertainty and risk.
 - (10) Effects on interjurisdictional relationships.
 - (11) Advantages accruing from relationships to other capital project proposals.
 - (12) Private sector contracting for construction, operation, or maintenance.
- b. Make recommendations to the general assembly and the legislative capital projects committee regarding the funding and priorities of proposed capital projects.
 - c. Develop maintenance standards and guidelines for capital projects.
 - d. Review financing alternatives available to fund capital projects, including the evaluation of the advantages and disadvantages of bonding for all types of capital projects undertaken by all state agencies.
 - e. Monitor the debt of the state or a state agency.

3. DIVISION OF PROJECT RESTRICTED. A capital project shall not be divided into smaller projects in such a manner as to thwart the intent of this section to provide for the evaluation of a capital project whose cost cumulatively equals or exceeds two hundred fifty thousand dollars.

Sec. 75. Section 8A.204, subsection 3, paragraph g, subparagraph (4), Code Supplement 2007, is amended to read as follows:

(4) Review and approval of all concept papers and documentation related to requests for proposals for all information technology devices, hardware acquisition, information technology services, software development projects, and information technology outsourcing for agencies that exceed the greater of a total cost of fifty thousand dollars or a total involvement of seven hundred fifty agency staff hours. as follows:

(a) The review and approval of concept papers and documentation as provided in this subparagraph shall occur prior to the issuance of the related request for proposals.

(b) Notwithstanding section 21.5, subsection 1, the board, by vote of at least six members, may hold a closed session to review and discuss concept papers and documentation related to a request for proposals if the board determines that the public disclosure of such discussion prior to the issuance of the request for proposals may disadvantage any potential vendors.

(c) The board shall keep detailed minutes of all discussion, persons present, and action occurring at a closed session, and shall also tape record all of the closed session. The minutes and the tape recording of a session closed under this subparagraph shall be made available for public examination when a final decision is made regarding whether to issue the request for proposals.

(d) All board actions and decisions regarding this information shall be made in open session and appropriately recorded.

Sec. 76. Section 8A.324, Code 2007, is amended to read as follows:

8A.324 DISPOSAL OF PERSONAL PROPERTY.

1. The director may dispose of personal property of the state under the director's control by any of the following means:

1. a. The director may dispose of unfit or unnecessary personal property by sale. Proceeds from the sale of personal property shall be deposited in the general fund of the state.

2. b. If the director concludes that the personal property has little or no value, the director may enter into an agreement with a not-for-profit organization or governmental agency to dispose of the personal property. ~~The not-for-profit organization or governmental agency may charge the state agency in control of the property with the cost of removing and transporting the property. Title to the personal property shall transfer when the personal property is in the~~

possession of the not-for-profit organization or governmental agency. If a governmental agency adds value to the property transferred to it and sells it, the proceeds from the sale shall be deposited with the governmental agency and not in the general fund of the state.

A not-for-profit organization or governmental agency that enters into an agreement with the director pursuant to this subsection may sell or otherwise transfer the personal property received from the department to any person that the department would be able to sell or otherwise transfer such property to under this chapter, including, but not limited to, the general public. The authority granted to sell or otherwise transfer personal property pursuant to this paragraph supersedes any other restrictions applicable to the not-for-profit organization or governmental agency, but only for purposes of the personal property received from the department.

~~3. c.~~ The director may dispose of presses, printing equipment, printing supplies, and other machinery or equipment used in the printing operation.

2. A not-for-profit organization or governmental agency that enters into an agreement with the director pursuant to subsection 1 may charge the state agency in control of the property with the cost of removing and transporting the property. Title to the personal property shall transfer when the personal property is in the possession of the not-for-profit organization or governmental agency. If a governmental agency adds value to the property transferred to it and sells it, the proceeds from the sale shall be deposited with the governmental agency and not in the general fund of the state. The not-for-profit organization or governmental agency may sell or otherwise transfer the personal property received from the department to any person that the department would be able to sell or otherwise transfer such property to under this chapter, including but not limited to the general public. The authority granted to sell or otherwise transfer personal property pursuant to this subsection supersedes any other restrictions applicable to the not-for-profit organization or governmental agency, but only for purposes of the personal property received from the department.

Sec. 77. Section 8A.413, Code 2007, is amended to read as follows:

8A.413 STATE HUMAN RESOURCE MANAGEMENT — RULES.

The department shall adopt rules for the administration of this subchapter pursuant to chapter 17A. Rulemaking shall be carried out with due regard to the terms of collective bargaining agreements. A rule shall not supersede a provision of a collective bargaining agreement negotiated under chapter 20. Notwithstanding any provisions to the contrary, a rule or regulation shall not be adopted by the department which would deprive the state of Iowa, or any of its agencies or institutions, of federal grants or other forms of financial assistance. The rules shall provide:

1. For the preparation, maintenance, and revision of a job classification plan that encompasses each job in the executive branch, excluding job classifications under the state board of regents, based upon assigned duties and responsibilities, so that the same general qualifications may reasonably be required for and the same pay plan may be equitably applied to all jobs in the same job classification. The director shall classify the position of every employee in the executive branch, excluding employees of the state board of regents, into one of the classes in the plan. An appointing authority or employee adversely affected by a classification or reclassification decision may file an appeal with the director. Appeals of a classification or reclassification decision shall be exempt from the provisions of section 17A.11 and shall be heard by a committee appointed by the director. The classification or reclassification of a position that would cause the expenditure of additional salary funds shall not become effective if the expenditure of funds would be in excess of the total amount budgeted for the department of the appointing authority until budgetary approval has been obtained from the director of the department of management.

2. When For notification of the governor when the public interest requires a decrease or increase of employees in any position or type of employment not otherwise provided by law, or the creation or abolishment of any position or type of employment, as determined by the director, acting in good faith, ~~shall so notify the governor.~~ Thereafter, the position or type of em-

ployment shall stand abolished or created and the number of employees therein reduced or increased.

~~2.~~ 3. For pay plans covering all employees in the executive branch, excluding employees of the state board of regents, after consultation with the governor and appointing authorities, and consistent with the terms of collective bargaining agreements negotiated under chapter 20.

~~3.~~ 4. For examinations to determine the relative fitness of applicants for employment.

a. Such examinations shall be practical in character and shall relate to such matters as will fairly assess the ability of the applicant to discharge the duties of the position to which appointment is sought.

b. Where the Code of Iowa establishes certification, registration, or licensing provisions, such documents shall be considered prima facie evidence of basic skills accomplishment and such persons shall be exempt from further basic skills examination.

~~5.~~ 5. ~~Vacancies shall be announced publicly~~ For the public announcement of vacancies at least ten days in advance of the date fixed for the filing of applications for the vacancies, and ~~shall be advertised~~ the advertisement of the vacancies through the communications media. The director may, however, in the director's discretion, continue to receive applications and examine candidates for a period adequate to assure a sufficient number of eligibles to meet the needs of the system, and may add the names of successful candidates to existing eligible lists.

4. ~~6.~~ For promotions which shall give appropriate consideration to the applicant's qualifications, record of performance, and conduct. A promotion means a change in the status of an employee from a position in one class to a position in another class having a higher pay grade.

~~5.~~ 7. For the establishment of lists for appointment and promotion, upon which lists shall be placed the names of successful candidates.

~~6.~~ 8. For the rejection of applicants who fail to meet reasonable requirements.

~~7.~~ 9. For the appointment by the appointing authority of a person on the appropriate list to fill a vacancy.

~~8.~~ 10. For a probation period of six months, excluding educational or training leave, before appointment may be made complete, and during which period a probationer may be discharged or reduced in class or pay. If the employee's services are unsatisfactory, the employee shall be dropped from the payroll on or before the expiration of the probation period. If satisfactory, the appointment shall be deemed permanent. The determination of the appointing authority shall be final and conclusive.

9. ~~11.~~ For temporary employment for not more than seven hundred eighty hours in a fiscal year.

10. ~~12.~~ For provisional employment when there is no appropriate list available. Such provisional employment shall not continue longer than one hundred eighty calendar days.

~~11.~~ 13. For transfer from a position in one state agency to a similar position in the same state agency or another state agency involving similar qualifications, duties, responsibilities, and salary ranges. Whenever an employee transfers or is transferred from one state agency to another state agency, the employee's seniority rights, any accumulated sick leave, and accumulated vacation time, as provided in the law, shall be transferred to the new place of employment and credited to the employee. Employees who are subject to contracts negotiated under chapter 20 which include transfer provisions shall be governed by the contract provisions.

~~12.~~ 14. For reinstatement of persons who have attained permanent status and who resign in good standing or who are laid off from their positions without fault or delinquency on their part.

~~13.~~ 15. For establishing in cooperation with the appointing authorities a performance management system for all employees in the executive branch, excluding employees of the state board of regents, which shall be considered in determining salary increases; as a factor in promotions; as a factor in determining the order of layoffs and in reinstatement; as a factor in demotions, discharges, and transfers; and for the regular evaluation, at least annually, of the qualifications and performance of those employees.

14. ~~16.~~ For layoffs by reason of lack of funds or work, or reorganization, and for the recall

of employees so laid off, giving consideration in layoffs to the employee's performance record and length of service. An employee who has been laid off may be on a recall list for one year, which list shall be exhausted by the organizational unit enforcing the layoff before selection of an employee may be made from the promotional or nonpromotional list in the employee's classification. Employees who are subject to contracts negotiated under chapter 20 which include layoff and recall provisions shall be governed by the contract provisions.

~~15.~~ 17. For imposition, as a disciplinary measure, of a suspension from service without pay.

~~16.~~ 18. a. For discharge, suspension, or reduction in job classification or pay grade for any of the following causes:

~~(1) failure~~ Failure to perform assigned duties; ~~inadequacy.~~

~~(2) Inadequacy~~ in performing assigned duties; ~~negligence; inefficiency; incompetence; in-~~
~~subordination; unrehabilitated.~~

~~(3) Negligence.~~

~~(4) Inefficiency.~~

~~(5) Incompetence.~~

~~(6) Insubordination.~~

~~(7) Unrehabilitated~~ alcoholism or narcotics addiction; ~~dishonesty; unlawful.~~

~~(8) Dishonesty.~~

~~(9) Unlawful~~ discrimination; ~~failure.~~

~~(10) Failure~~ to maintain a license, certificate, or qualification necessary for a job classifica-
tion or position; ~~any.~~

~~(11) Any~~ act or conduct which adversely affects the employee's performance or the employ-
ing agency; ~~or any.~~

~~(12) Any~~ other good cause for discharge, suspension, or reduction.

b. The person discharged, suspended, or reduced shall be given a written statement of the reasons for the discharge, suspension, or reduction within twenty-four hours after the discharge, suspension, or reduction.

c. All persons concerned with the administration of this subchapter shall use their best efforts to ensure that this subchapter and the rules adopted pursuant to this subchapter shall not be a means of protecting or retaining unqualified or unsatisfactory employees, and shall discharge, suspend, or reduce in job classification or pay grade all employees who should be discharged, suspended, or reduced for any of the causes stated in this subsection.

~~17.~~ 19. For establishment of a uniform plan for resolving employee grievances and complaints. Employees who are subject to contracts negotiated under chapter 20 which include grievance and complaint provisions shall be governed by the contract provisions.

~~18.~~ 20. For attendance regulations, and special leaves of absence, with or without pay, or reduced pay, in the various classes of positions in the executive branch, excluding positions under the state board of regents.

a. Employees who are subject to contracts negotiated under chapter 20 which include leave of absence provisions shall be governed by the contract provisions.

b. Annual sick leave and vacation time shall be granted in accordance with section 70A.1.

~~19.~~ 21. For the development and operation of programs to improve the work effectiveness and morale of employees in the executive branch, excluding employees of the state board of regents, including training, safety, health, welfare, counseling, recreation, and employee relations.

~~20.~~ ~~Notwithstanding any provisions to the contrary, a rule or regulation shall not be adopted by the department which would deprive the state of Iowa, or any of its agencies or institutions, of federal grants or other forms of financial assistance.~~

~~21.~~ 22. For veterans preference through a provision that veterans, as defined in section 35.1, shall have five points added to the grade or score attained in qualifying examinations for appointment to jobs.

a. Veterans who have a service-connected disability or are receiving compensation, disability benefits, or pension under laws administered by the veterans administration shall have ten points added to the grades attained in qualifying examinations.

b. A veteran who has been awarded the purple heart for disabilities incurred in action shall be considered to have a service-connected disability.

~~22.~~ 23. For acceptance of the qualifications, requirements, regulations, and general provisions established under other sections of the Code pertaining to professional registration, certification, and licensing.

Sec. 78. Section 8D.3, subsections 1 and 2, Code Supplement 2007, are amended to read as follows:

1. COMMISSION ESTABLISHED. A telecommunications and technology commission is established with the sole authority to supervise the management, development, and operation of the network and ensure that all components of the network are technically compatible. The management, development, and operation of the network shall not be subject to the jurisdiction or control of any other state agency. However, the commission is subject to the general operations practices and procedures which are generally applicable to other state agencies.

a. The commission shall ensure that the network operates in an efficient and responsible manner consistent with the provisions of this chapter for the purpose of providing the best economic service attainable to the network users consistent with the state's financial capacity.

b. The commission shall ensure that educational users and the use, design, and implementation for educational applications be given the highest priority concerning use of the network.

c. The commission shall provide for the centralized, coordinated use and control of the network.

2. MEMBERS. The commission is composed of five members appointed by the governor and subject to confirmation by the senate. Members of the commission shall not serve in any manner or be employed by an authorized user of the network or by an entity seeking to do or doing business with the network.

a. The governor shall appoint a member as the chairperson of the commission from the five members appointed by the governor, subject to confirmation by the senate.

b. Members of the commission shall serve six-year staggered terms as designated by the governor and appointments to the commission are subject to the requirements of sections 69.16, 69.16A, and 69.19. Vacancies shall be filled by the governor for the duration of the unexpired term.

c. The salary of the members of the commission shall be twelve thousand dollars per year, except that the salary of the chairperson shall be seventeen thousand dollars per year. Members of the commission shall also be reimbursed for all actual and necessary expenses incurred in the performance of duties as members. The benefits and salary paid to the members of the commission shall be adjusted annually equal to the average of the annual pay adjustments, expense reimbursements, and related benefits provided under collective bargaining agreements negotiated pursuant to chapter 20.

d. Meetings of the commission shall be held at the call of the chairperson of the commission. In addition to the members appointed by the governor, the auditor of state or the auditor's designee shall serve as a nonvoting, ex officio member of the commission.

~~The benefits and salary paid to the members of the commission shall be adjusted annually equal to the average of the annual pay adjustments, expense reimbursements, and related benefits provided under collective bargaining agreements negotiated pursuant to chapter 20.~~

Sec. 79. Section 15.331A, Code 2007, is amended to read as follows:

15.331A SALES AND USE TAX REFUND.

1. The eligible business shall be entitled to a refund of the sales and use taxes paid under 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 of the eligible business. Taxes attributable to intangible property and furniture and furnishings shall not be refunded. However, an eligible business shall be entitled to a refund for taxes attributable to racks, shelving, and conveyor equipment to be used in a warehouse or distribution center subject to section 15.331C.

2. To receive the refund a claim shall be filed by the eligible business with the department of revenue as follows:

1. a. The contractor or subcontractor shall state under oath, on forms provided by the department, the amount of the sales of goods, wares, or merchandise or services rendered, furnished, or performed including water, sewer, gas, and electric utility services upon which sales or use tax has been paid prior to the project completion, and shall file the forms with the eligible business before final settlement is made.

2. b. The eligible business shall, not more than one year after project completion, make application to the department for any refund of the amount of the sales and use taxes paid pursuant to chapter 423 upon any goods, wares, or merchandise, or services rendered, furnished, or performed, including water, sewer, gas, and electric utility services. The application shall be made in the manner and upon forms to be provided by the department, and the department shall audit the claim and, if approved, issue a warrant to the eligible business in the amount of the sales or use tax which has been paid to the state of Iowa under a contract. A claim filed by the eligible business in accordance with this section shall not be denied by reason of a limitation provision set forth in chapter 421 or 423.

3. A contractor or subcontractor who willfully makes a false report of tax paid under the provisions of this section is guilty of a simple misdemeanor and in addition is liable for the payment of the tax and any applicable penalty and interest.

Sec. 80. Section 17A.4, Code 2007, is amended to read as follows:

17A.4 PROCEDURE FOR ADOPTION OF RULES.

1. Prior to the adoption, amendment, or repeal of any rule an agency shall:

a. Give notice of its intended action by submitting the notice to the administrative rules coordinator and the administrative code editor. The administrative rules coordinator shall assign an ARC number to each rulemaking document. The administrative code editor shall publish each notice meeting the requirements of this chapter in the Iowa administrative bulletin created pursuant to section 17A.6. Any notice of intended action shall be published at least thirty-five days in advance of the action. The notice shall include a statement of either the terms or substance of the intended action or a description of the subjects and issues involved, and the time when, the place where, and the manner in which interested persons may present their views.

b. Afford all interested persons not less than twenty days to submit data, views, or arguments in writing. If timely requested in writing by twenty-five interested persons, by a governmental subdivision, by the administrative rules review committee, by an agency, or by an association having not less than twenty-five members, the agency must give interested persons an opportunity to make oral presentation. The opportunity for oral presentation must be held at least twenty days after publication of the notice of its time and place in the Iowa administrative bulletin. The agency shall consider fully all written and oral submissions respecting the proposed rule. Within one hundred eighty days following either the notice published according to the provisions of paragraph "a" or within one hundred eighty days after the last date of the oral presentations on the proposed rule, whichever is later, the agency shall adopt a rule pursuant to the rulemaking proceeding or shall terminate the proceeding by publishing notice of termination in the Iowa administrative bulletin.

An agency shall include in a preamble to each rule it adopts a brief explanation of the principal reasons for its action and, if applicable, a brief explanation of the principal reasons for its failure to provide in that rule for the waiver of the rule in specified situations if no such waiver provision is included in the rule. This explanatory requirement does not apply when the agency adopts a rule that only defines the meaning of a provision of law if the agency does not possess delegated authority to bind the courts to any extent with its definition. In addition, if requested to do so by an interested person, either prior to adoption or within thirty days thereafter, the agency shall issue a concise statement of the principal reasons for and against the rule adopted, incorporating therein the reasons for overruling considerations urged against the rule. This concise statement shall be issued either at the time of the adoption of the rule or within thirty-five days after the agency receives the request.

c. Mail the number of copies of the proposed rule as requested to the state office of a trade or occupational association which has registered its name and address with the agency. The trade or occupational association shall reimburse the agency for the actual cost incurred in providing the copies of the proposed rule under this paragraph. Failure to provide copies as provided in this paragraph shall not be grounds for the invalidation of a rule, unless that failure was deliberate on the part of that agency or the result of gross negligence.

2. An agency shall include in a preamble to each rule it adopts a brief explanation of the principal reasons for its action and, if applicable, a brief explanation of the principal reasons for its failure to provide in that rule for the waiver of the rule in specified situations if no such waiver provision is included in the rule. This explanatory requirement does not apply when the agency adopts a rule that only defines the meaning of a provision of law if the agency does not possess delegated authority to bind the courts to any extent with its definition. In addition, if requested to do so by an interested person, either prior to adoption or within thirty days thereafter, the agency shall issue a concise statement of the principal reasons for and against the rule adopted, incorporating therein the reasons for overruling considerations urged against the rule. This concise statement shall be issued either at the time of the adoption of the rule or within thirty-five days after the agency receives the request.

~~2.~~ 3. When an agency for good cause finds that notice and public participation would be unnecessary, impracticable, or contrary to the public interest, the provisions of subsection 1 shall be inapplicable. The agency shall incorporate in each rule issued in reliance upon this provision either the finding and a brief statement of the reasons for the finding, or a statement that the rule is within a very narrowly tailored category of rules whose issuance has previously been exempted from subsection 1 by a special rule relying on this provision and including such a finding and statement of reasons for the entire category. If the administrative rules review committee by a two-thirds vote, the governor, or the attorney general files with the administrative code editor an objection to the adoption of any rule pursuant to this subsection, that rule shall cease to be effective one hundred eighty days after the date the objection was filed. A copy of the objection, properly dated, shall be forwarded to the agency at the time of filing the objection. In any action contesting a rule adopted pursuant to this subsection, the burden of proof shall be on the agency to show that the procedures of subsection 1 were impracticable, unnecessary, or contrary to the public interest and that, if a category of rules was involved, the category was very narrowly tailored.

~~3.~~ 4. Any notice of intended action or rule filed without notice pursuant to subsection 2 ~~3~~, which necessitates additional annual expenditures of at least one hundred thousand dollars or combined expenditures of at least five hundred thousand dollars within five years by all affected persons, including the agency itself, shall be accompanied by a fiscal impact statement outlining the expenditures. The agency shall promptly deliver a copy of the statement to the legislative services agency. To the extent feasible, the legislative services agency shall analyze the statement and provide a summary of that analysis to the administrative rules review committee. If the agency has made a good faith effort to comply with the requirements of this subsection, the rule shall not be invalidated on the ground that the contents of the statement are insufficient or inaccurate.

~~4.~~ 5. No rule adopted after July 1, 1975, is valid unless adopted in substantial compliance with the above requirements of this section. However, a rule shall be conclusively presumed to have been made in compliance with all of the above procedural requirements of this section if it has not been invalidated on the grounds of noncompliance in a proceeding commenced within two years after its effective date.

~~5.~~ 6. a. If the administrative rules review committee created by section 17A.8, the governor, or the attorney general finds objection to all or some portion of a proposed or adopted rule because that rule is deemed to be unreasonable, arbitrary, capricious, or otherwise beyond the authority delegated to the agency, the committee, governor, or attorney general may, in writing, notify the agency of the objection. In the case of a rule issued under subsection 2 ~~3~~, or a rule made effective under section 17A.5, subsection 2, paragraph "b", the committee, governor, or attorney general may notify the agency of such an objection. The committee, governor, or attorney general shall also file a certified copy of such an objection in the office of the admin-

istrative code editor and a notice to the effect that an objection has been filed shall be published in the next issue of the Iowa administrative bulletin and in the Iowa administrative code when that rule is printed in it. The burden of proof shall then be on the agency in any proceeding for judicial review or for enforcement of the rule heard subsequent to the filing to establish that the rule or portion of the rule timely objected to according to the above procedure is not unreasonable, arbitrary, capricious, or otherwise beyond the authority delegated to it.

b. If the agency fails to meet the burden of proof prescribed for a rule objected to according to the provisions of paragraph "a" of this subsection, the court shall declare the rule or portion of the rule objected to invalid and judgment shall be rendered against the agency for court costs. Such court costs shall include a reasonable attorney fee and shall be payable by the director of the department of administrative services from the support appropriations of the agency which issued the rule in question.

~~6.~~ 7. Upon the vote of two-thirds of its members the administrative rules review committee may delay the effective date of a rule seventy days beyond that permitted in section 17A.5, unless the rule was promulgated under section 17A.5, subsection 2, paragraph "b". This provision shall be utilized by the committee only if further time is necessary to study and examine the rule. Notice of an effective date that was delayed under this provision shall be published in the Iowa administrative code and bulletin.

~~7.~~ 8. The governor may rescind an adopted rule by executive order within seventy days of the rule becoming effective. The governor shall provide a copy of the executive order to the administrative code editor who shall include it in the next publication of the Iowa administrative bulletin.

Sec. 81. Section 17A.4A, subsections 1, 4, and 7, Code 2007, are amended to read as follows:

1. An agency shall issue a regulatory analysis of a proposed rule that complies with subsection 2, paragraph "a", if, within thirty-two days after the published notice of proposed rule adoption, a written request for the analysis is submitted to the agency by the administrative rules review committee or the administrative rules coordinator. An agency shall issue a regulatory analysis of a proposed rule that complies with subsection 2, paragraph "b", if the rule would have a substantial impact on small business and if, within thirty-two days after the published notice of proposed rule adoption, a written request for analysis is submitted to the agency by the administrative rules review committee, the administrative rules coordinator, at least twenty-five persons signing that request who each qualify as a small business or by an organization representing at least twenty-five such persons. If a rule has been adopted without prior notice and an opportunity for public participation in reliance upon section 17A.4, subsection ~~2~~ 3, the written request for an analysis that complies with subsection 2, paragraph "a" or "b", may be made within seventy days of publication of the rule.

4. Upon receipt by an agency of a timely request for a regulatory analysis, the agency shall extend the period specified in this chapter for each of the following until at least twenty days after publication in the administrative bulletin of a concise summary of the regulatory analysis:

a. The end of the period during which persons may make written submissions on the proposed rule.

b. The end of the period during which an oral proceeding may be requested.

c. The date of any required oral proceeding on the proposed rule.

~~4A.~~ In the case of a rule adopted without prior notice and an opportunity for public participation in reliance upon section 17A.4, subsection ~~2~~ 3, the summary must be published within seventy days of the request.

~~7.~~ a. For the purpose of this section, "small business" means any entity including but not limited to an individual, partnership, corporation, joint venture, association, or cooperative, to which all of the following apply:

~~a.~~ (1) It is not an affiliate or subsidiary of an entity dominant in its field of operation.

~~b.~~ (2) It has either twenty or fewer full-time equivalent positions or less than one million dollars in annual gross revenues in the preceding fiscal year.

b. For purposes of this definition, “dominant in its field of operation” means having more than twenty full-time equivalent positions and more than one million dollars in annual gross revenues, and “affiliate or subsidiary of an entity dominant in its field of operation” means an entity which is at least twenty percent owned by an entity dominant in its field of operation, or by partners, officers, directors, majority stockholders, or their equivalent, of an entity dominant in that field of operation.

Sec. 82. Section 20.5, Code Supplement 2007, is amended to read as follows:

20.5 PUBLIC EMPLOYMENT RELATIONS BOARD.

1. There is established a board to be known as the “Public Employment Relations Board”.

a. The board shall consist of three members appointed by the governor, subject to confirmation by the senate. In selecting the members of the board, consideration shall be given to their knowledge, ability, and experience in the field of labor-management relations. No more than two members shall be of the same political affiliation, no member shall engage in any political activity while holding office and the members shall devote full time to their duties.

b. The members shall be appointed for staggered terms of four years beginning and ending as provided in section 69.19.

c. The member first appointed for a term of four years shall serve as chairperson and each of the member’s successors shall also serve as chairperson.

~~2.~~ d. Any vacancy occurring shall be filled in the same manner as regular appointments are made.

~~3.~~ In selecting the members of the board, consideration shall be given to their knowledge, ability, and experience in the field of labor-management relations. The chairperson and the remaining two members shall be compensated as provided in section 7E.6, subsection 5.

~~4.~~ 2. The board may employ such persons as are necessary for the performance of its functions. Personnel of the board shall be employed pursuant to the provisions of chapter 8A, subchapter IV.

~~5.~~ 3. The chairperson and the remaining two members shall be compensated as provided in section 7E.6, subsection 5. Members of the board and other employees of the board shall be allowed their actual and necessary expenses incurred in the performance of their duties. All expenses and salaries shall be paid from appropriations for such purposes and the board shall be subject to the budget requirements of chapter 8.

Sec. 83. Section 24.26, Code 2007, is amended to read as follows:

24.26 STATE APPEAL BOARD.

1. The state appeal board in the department of management consists of the following:

~~1.~~ a. The director of the department of management.

~~2.~~ b. The auditor of state.

~~3.~~ c. The treasurer of state.

2. The annual meeting of the state board shall be held on the second Tuesday of January in each year. At each annual meeting the state board shall organize by the election from its members of a chairperson and a vice chairperson; and by appointing a secretary. Two members of the state board constitute a quorum for the transaction of any business.

3. The state board may appoint one or more competent and specially qualified persons as deputies, to appear and act for it at initial hearings. The annual meeting of the state board shall be held on the second Tuesday of January in each year. Each deputy appointed by the state board is entitled to receive the amount of the deputy’s necessary expenses actually incurred while engaged in the performance of the deputy’s official duties. The expenses shall be audited and approved by the state board and proper receipts filed for them.

4. The expenses of the state board shall be paid from the funds appropriated to the department of management.

Sec. 84. Section 68A.102, subsection 10, Code Supplement 2007, is amended to read as follows:

10. a. “Contribution” means:

a. (1) A gift, loan, advance, deposit, rebate, refund, or transfer of money or a gift in kind.
 b. (2) The payment, by any person other than a candidate or political committee, of compensation for the personal services of another person which are rendered to a candidate or political committee for any such purpose.

b. "Contribution" shall not include services;

(1) Services provided without compensation by individuals volunteering their time on behalf of a candidate's committee or political committee or a state or county statutory political committee except when organized or provided on a collective basis by a business, trade association, labor union, or any other organized group or association. "Contribution" shall not include refreshments

(2) Refreshments served at a campaign function so long as such refreshments do not exceed fifty dollars in value or transportation provided to a candidate so long as its value computed at the current rate of reimbursement allowed under the standard mileage rate method for computation of business expenses pursuant to the Internal Revenue Code does not exceed one hundred dollars in value in any one reporting period. "Contribution" shall not include something

(3) Something provided to a candidate for the candidate's personal consumption or use and not intended for or on behalf of the candidate's committee.

Sec. 85. Section 68B.32A, subsection 2, unnumbered paragraph 2, Code Supplement 2007, is amended to read as follows:

2A. The board may establish Establish a process to assign signature codes to a person or committee for purposes of facilitating an electronic filing procedure. The assignment of signature codes shall be kept confidential, notwithstanding section 22.2. The board and persons electronically filing reports and statements shall keep assigned signature codes or subsequently selected signature codes confidential. Signature codes shall not be subject to state security policies regarding frequency of change.

Sec. 86. Section 73A.21, Code 2007, is amended to read as follows:

73A.21 RECIPROCAL RESIDENT BIDDER PREFERENCE BY STATE, ITS AGENCIES, AND POLITICAL SUBDIVISIONS.

1. For purposes of this section:

a. "Public improvement" means public improvements as defined in section 73A.1 and includes road construction, reconstruction, and maintenance projects.

b. "Resident bidder" means a person authorized to transact business in this state and having a place of business for transacting business within the state at which it is conducting and has conducted business for at least six months prior to the first advertisement for the public improvement and in the case of a corporation, having at least fifty percent of its common stock owned by residents of this state. If another state or foreign country has a more stringent definition of a resident bidder, the more stringent definition is applicable as to bidders from that state or foreign country.

2. Notwithstanding this chapter, chapter 73, chapter 309, chapter 310, chapter 331, or chapter 384, when a contract for a public improvement is to be awarded to the lowest responsible bidder, a resident bidder shall be allowed a preference as against a nonresident bidder from a state or foreign country which gives or requires a preference to bidders from that state or foreign country. The preference is equal to the preference given or required by the state or foreign country in which the nonresident bidder is a resident. "Resident bidder" means a person authorized to transact business in this state and having a place of business for transacting business within the state at which it is conducting and has conducted business for at least six months prior to the first advertisement for the public improvement and in the case of a corporation, having at least fifty percent of its common stock owned by residents of this state. If another state or foreign country has a more stringent definition of a resident bidder, the more stringent definition is applicable as to bidders from that state or foreign country.

For purposes of this section, "public improvement" means public improvements as defined in section 73A.1 and includes road construction, reconstruction, and maintenance projects.

~~3.~~ This section applies to the state, its agencies, and any political subdivisions of the state.

~~4.~~ If it is determined that this may cause denial of federal funds which would otherwise be available, or would otherwise be inconsistent with requirements of federal law, this section shall be suspended, but only to the extent necessary to prevent denial of the funds or to eliminate the inconsistency with federal requirements.

Sec. 87. Section 80.9, Code Supplement 2007, is amended to read as follows:

80.9 DUTIES OF DEPARTMENT — DUTIES AND POWERS OF PEACE OFFICERS — STATE PATROL.

~~1.~~ It shall be the duty of the department to prevent crime, to detect and apprehend criminals, and to enforce such other laws as are hereinafter specified. ~~A peace officer of the department when authorized by the commissioner shall have and exercise all the powers of any other peace officer of the state.~~

~~2.~~ The state patrol is established in the department. The patrol shall be under the direction of the commissioner. The number of supervisory officers shall be in proportion to the membership of the state patrol. The department shall maintain a vehicle theft unit in the state patrol to investigate and assist in the examination and identification of stolen, altered, or forfeited vehicles.

~~3.~~ The department shall be primarily responsible for the enforcement of all laws and rules relating to any controlled substance or counterfeit substance, except for making accountability audits of the supply and inventory of controlled substances in the possession of pharmacists, physicians, hospitals, and health care facilities as defined in section 135C.1, as well as in the possession of any and all other individuals or institutions authorized to have possession of any controlled substances.

~~1.~~ ~~A peace officer shall not exercise the general powers of a peace officer within the limits of any city, except:~~

- ~~a.~~ When so ordered by the direction of the governor;
- ~~b.~~ When request is made by the mayor of any city, with the approval of the commissioner;
- ~~c.~~ When request is made by the sheriff or county attorney of any county with the approval of the commissioner;
- ~~d.~~ While in the pursuit of law violators or in investigating law violations;
- ~~e.~~ While making any inspection provided by this chapter, or any additional inspection ordered by the commissioner;
- ~~f.~~ When engaged in the investigating and enforcing of fire and arson laws;
- ~~g.~~ When engaged in the investigation and enforcement of laws relating to narcotic, counterfeit, stimulant, and depressant drugs.

~~When a peace officer of the department is acting in cooperation with any other local peace officer, or county attorney in general criminal investigation work, or when acting on a special assignment by the commissioner, the jurisdiction of the peace officer is statewide.~~

~~However, the above limitations shall in no way be construed as a limitation as to their power as officers when a public offense is being committed in their presence.~~

~~2.~~ ~~In more particular, the duties of a peace officer shall be as follows:~~

- ~~a.~~ To enforce all state laws.
- ~~b.~~ To enforce all laws relating to traffic on the public highways of the state, including those relating to the safe and legal operation of passenger cars, motorcycles, motor trucks and buses; to see that proper safety rules are observed and to give first aid to the injured.
- ~~c.~~ To investigate all fires; to apprehend persons suspected of arson; to enforce all safety measures in connection with the prevention of fires; to disseminate fire prevention education; to develop training standards and provide training to fire fighters around the state; and to address other issues related to fire service and emergency response as requested by the state fire service and emergency response council.

~~d.~~ ~~4.~~ ~~To~~ The department shall collect and classify, and keep at all times available, complete information useful for the detection of crime, and the identification and apprehension of criminals. Such information shall be available for all peace officers within the state, under such reg-

ulations as the commissioner may prescribe. The provisions of chapter 141A do not apply to the entry of human immunodeficiency virus-related information by criminal or juvenile justice agencies, as defined in section 692.1, into the Iowa criminal justice information system or the national crime information center system. The provisions of chapter 141A also do not apply to the transmission of the same information from either or both information systems to criminal or juvenile justice agencies. The provisions of chapter 141A also do not apply to the transmission of the same information from either or both information systems to employees of state correctional institutions subject to the jurisdiction of the department of corrections, employees of secure facilities for juveniles subject to the jurisdiction of the department of human services, and employees of city and county jails, if those employees have direct physical supervision over inmates of those facilities or institutions. Human immunodeficiency virus-related information shall not be transmitted over the police radio broadcasting system under chapter 693 or any other radio-based communications system. An employee of an agency receiving human immunodeficiency virus-related information under this section who communicates the information to another employee who does not have direct physical supervision over inmates, other than to a supervisor of an employee who has direct physical supervision over inmates for the purpose of conveying the information to such an employee, or who communicates the information to any person not employed by the agency or uses the information outside the agency is guilty of a class "D" felony. The commissioner shall adopt rules regarding the transmission of human immunodeficiency virus-related information including provisions for maintaining confidentiality of the information. The rules shall include a requirement that persons receiving information from the Iowa criminal justice information system or the national crime information center system receive training regarding confidentiality standards applicable to the information received from the system. The commissioner shall develop and establish, in cooperation with the department of corrections and the Iowa department of public health, training programs and program criteria for persons receiving human immunodeficiency virus-related information through the Iowa criminal justice information system or the national crime information center system.

e. 5. ~~To~~ The department shall operate such radio broadcasting stations as may be necessary in order to disseminate information which will make possible the speedy apprehension of law-breakers, as well as such other information as may be necessary in connection with the duties of this office the department.

f. 6. Provide The department shall provide protection and security for persons and property on the grounds of the state capitol complex.

g. 7. ~~To~~ The department shall assist persons who are responsible for the care of private and public land in identifying growing marijuana plants when the plants are reported to the department. The department shall also provide education to the persons regarding methods of eradicating the plants. The department shall adopt rules necessary to carry out this paragraph subsection.

h. ~~To maintain a vehicle theft unit in the state patrol to investigate and assist in the examination and identification of stolen, altered, or forfeited vehicles.~~

i. 8. Receive The department shall receive and review the budget submitted by the state fire marshal and the state fire service and emergency response council. The department shall develop training standards, provide training to fire fighters around the state, and address other issues related to fire service and emergency response as requested by the state fire service and emergency response council.

j. 9. ~~To~~ The department shall administer section 100B.31 relating to volunteer emergency services provider death benefits.

3. A peace officer may administer oaths, acknowledge signatures, and take voluntary testimony pursuant to the peace officer's duties as provided by law.

4. The state patrol is established in the department. The patrol shall be under the direction of the commissioner. The number of supervisory officers shall be in proportion to the membership of the state patrol.

5. The department shall be primarily responsible for the enforcement of all laws and rules

~~relating to any controlled substance or counterfeit substance, except for making accountability audits of the supply and inventory of controlled substances in the possession of pharmacists, physicians, hospitals, and health care facilities as defined in section 135C.1, as well as in the possession of any and all other individuals or institutions authorized to have possession of any controlled substances.~~

Sec. 88. NEW SECTION. 80.9A AUTHORITY AND DUTIES OF PEACE OFFICERS OF THE DEPARTMENT.

1. A peace officer of the department when authorized by the commissioner shall have and exercise all the powers of any other peace officer of the state.

2. When a peace officer of the department is acting in cooperation with any other local peace officer, or county attorney in general criminal investigation work, or when acting on a special assignment by the commissioner, the jurisdiction of the peace officer is statewide.

3. A peace officer may administer oaths, acknowledge signatures, and take voluntary testimony pursuant to the peace officer's duties as provided by law.

4. An authorized peace officer of the department designated to conduct examinations, investigations, or inspections and enforce the laws relating to controlled or counterfeit substances shall have all the authority of other peace officers and may arrest a person without warrant for offenses under this chapter committed in the peace officer's presence or, in the case of a felony, if the peace officer has probable cause to believe that the person arrested has committed or is committing such offense. A peace officer of the department shall have the same authority as other peace officers to seize controlled or counterfeit substances or articles used in the manufacture or sale of controlled or counterfeit substances which they have reasonable grounds to believe are in violation of law. Such controlled or counterfeit substances or articles shall be subject to forfeiture.

5. In more particular, the duties of a peace officer shall be as follows:

a. To enforce all state laws.

b. To enforce all laws relating to traffic on the public highways of the state, including those relating to the safe and legal operation of passenger cars, motorcycles, motor trucks and buses; to see that proper safety rules are observed; and to give first aid to the injured.

c. To investigate all fires; to apprehend persons suspected of arson; to enforce all safety measures in connection with the prevention of fires; and to disseminate fire-prevention education.

6. A peace officer shall not exercise the general powers of a peace officer within the limits of any city, except as follows:

a. When so ordered by the direction of the governor.

b. When request is made by the mayor of any city, with the approval of the commissioner.

c. When request is made by the sheriff or county attorney of any county with the approval of the commissioner.

d. While in the pursuit of law violators or in investigating law violations.

e. While making any inspection provided by this chapter, or any additional inspection ordered by the commissioner.

f. When engaged in the investigating and enforcing of fire and arson laws.

g. When engaged in the investigation and enforcement of laws relating to narcotic, counterfeit, stimulant, and depressant drugs.

7. The limitations specified in subsection 6 shall in no way be construed as a limitation on the power of peace officers when a public offense is being committed in their presence.

Sec. 89. NEW SECTION. 80.9B HUMAN IMMUNODEFICIENCY VIRUS-RELATED INFORMATION.

1. The provisions of chapter 141A do not apply to the entry of human immunodeficiency virus-related information by criminal or juvenile justice agencies, as defined in section 692.1, into the Iowa criminal justice information system or the national crime information center system.

2. The provisions of chapter 141A also do not apply to the transmission of the same information from either or both information systems to criminal or juvenile justice agencies.

3. The provisions of chapter 141A also do not apply to the transmission of the same information from either or both information systems to employees of state correctional institutions subject to the jurisdiction of the department of corrections, employees of secure facilities for juveniles subject to the jurisdiction of the department of human services, and employees of city and county jails, if those employees have direct physical supervision over inmates of those facilities or institutions.

4. Human immunodeficiency virus-related information shall not be transmitted over the police radio broadcasting system under chapter 693 or any other radio-based communications system.

5. An employee of an agency receiving human immunodeficiency virus-related information under this section who communicates the information to another employee who does not have direct physical supervision over inmates, other than to a supervisor of an employee who has direct physical supervision over inmates for the purpose of conveying the information to such an employee, or who communicates the information to any person not employed by the agency or uses the information outside the agency is guilty of a class "D" felony.

6. The commissioner shall adopt rules regarding the transmission of human immunodeficiency virus-related information including provisions for maintaining confidentiality of the information. The rules shall include a requirement that persons receiving information from the Iowa criminal justice information system or the national crime information center system receive training regarding confidentiality standards applicable to the information received from the system.

7. The commissioner shall develop and establish, in cooperation with the department of corrections and the department of public health, training programs and program criteria for persons receiving human immunodeficiency virus-related information through the Iowa criminal justice information system or the national crime information center system.

Sec. 90. Section 80B.6, Code 2007, is amended to read as follows:

80B.6 COUNCIL CREATED — MEMBERSHIP.

1. There is created the Iowa law enforcement academy council which shall consist of the following seven voting members appointed by the governor subject to confirmation by the senate to terms of four years commencing as provided in section 69.19:

1. a. Three residents of the state.
2. b. A sheriff of a county.
3. c. A police officer who is a member of a police department of a city with a population larger than fifty thousand persons.
4. d. A police officer who is a member of a police department of a city with a population of less than fifty thousand persons.
5. e. A member of the department of public safety.

2. One senator appointed by the president of the senate after consultation with the majority leader and the minority leader of the senate and one representative appointed by the speaker of the house are also ex officio, nonvoting members of the council.

3. In the event a member appointed pursuant to this section is unable to complete a term, the vacancy shall be filled for the unexpired term in the same manner as the original appointment.

Sec. 91. Section 85.61, subsections 2, 7, and 11, Code Supplement 2007, are amended to read as follows:

2. "Employer" includes and applies to a the following:

a. A person, firm, association, or corporation, state, county, municipal corporation, school corporation, area education agency, township as an employer of volunteer fire fighters, volunteer emergency rescue technicians, and emergency medical care providers only, benefited fire

district, and the legal representatives of a deceased employer. ~~“Employer” includes and applies to a~~

~~b. A~~ rehabilitation facility approved for purchase-of-service contracts or for referrals by the department of human services or the department of education.

~~c. “Employer” also includes and applies to an An~~ eligible postsecondary institution as defined in section 261C.3, subsection 1, a school corporation, or an accredited nonpublic school if a student enrolled in the eligible postsecondary institution, school corporation, or accredited nonpublic school is providing unpaid services under a school-to-work program that includes, but is not limited to, the components provided for in section 258.10, subsection 2, paragraphs “a” through “f”. However, if a student participating in a school-to-work program is participating in open enrollment under section 282.18, “employer” means the receiving district. ~~“Employer” also includes and applies to a~~

~~d. A~~ community college as defined in section 260C.2, if a student enrolled in the community college is providing unpaid services under a school-to-work program that includes but is not limited to the components provided for in section 258.10, subsection 2, paragraphs “a” through “f”, and that is offered by the community college pursuant to a contractual agreement with a school corporation or accredited nonpublic school to provide the program. If a student participating in a school-to-work program that includes but is not limited to the components provided for in section 258.10, subsection 2, paragraphs “a” through “f”, is paid for services provided under the program, “employer” means any entity otherwise defined as an employer under this subsection which pays the student for providing services under the program.

7. The words “personal injury arising out of and in the course of the employment” shall include injuries to employees whose services are being performed on, in, or about the premises which are occupied, used, or controlled by the employer, and also injuries to those who are engaged elsewhere in places where their employer’s business requires their presence and subjects them to dangers incident to the business.

a. Personal injuries sustained by a volunteer fire fighter arise in the course of employment if the injuries are sustained at any time from the time the volunteer fire fighter is summoned to duty as a volunteer fire fighter until the time the volunteer fire fighter is discharged from duty by the chief of the volunteer fire department or the chief’s designee.

b. Personal injuries sustained by volunteer emergency rescue technicians or emergency medical care providers as defined in section 147A.1 arise in the course of employment if the injuries are sustained at any time from the time the volunteer emergency rescue technicians or emergency medical care providers are summoned to duty until the time those duties have been fully discharged.

11. a. “Worker” or “employee” means a person who has entered into the employment of, or works under contract of service, express or implied, or apprenticeship, for an employer; an executive officer elected or appointed and empowered under and in accordance with the charter and bylaws of a corporation, including a person holding an official position, or standing in a representative capacity of the employer; an official elected or appointed by the state, or a county, school district, area education agency, municipal corporation, or city under any form of government; a member of the state patrol; a conservation officer; and a proprietor, limited liability company member, limited liability partner, or partner who elects to be covered pursuant to section 85.1A, except as specified in this chapter.

b. a. “Worker” or “employee” includes an the following:

(1) An inmate as defined in section 85.59 and a person described in section 85.60.

e. (2) “Worker” or “employee” includes an An emergency medical care provider as defined in section 147A.1, a volunteer emergency rescue technician as defined in section 147A.1, a volunteer ambulance driver, or an emergency medical technician trainee, only if an agreement is reached between such worker or employee and the employer for whom the volunteer services are provided that workers’ compensation coverage under this chapter and chapters 85A and 85B is to be provided by the employer. An emergency medical care provider or volunteer emergency rescue technician who is a worker or employee under this ~~paragraph~~ subparagraph is not a casual employee. “Volunteer ambulance driver” means a person performing services as

a volunteer ambulance driver at the request of the person in charge of a fire department or ambulance service of a municipality. "Emergency medical technician trainee" means a person enrolled in and training for emergency medical technician certification.

d. ~~(3)~~ "Worker" or "employee" includes a A real estate agent who does not provide the services of an independent contractor. For the purposes of this paragraph "d" subparagraph, a real estate agent is an independent contractor if the real estate agent is licensed by the Iowa real estate commission as a salesperson and both of the following apply:

~~(1)~~ (a) Seventy-five percent or more of the remuneration, whether or not paid in cash, for the services performed by the individual as a real estate salesperson is derived from one company and is directly related to sales or other output, including the performance of services, rather than to the number of hours worked.

~~(2)~~ (b) The services performed by the individual are performed pursuant to a written contract between the individual and the person for whom the services are performed, and the contract provides that the individual will not be treated as an employee with respect to the services for state tax purposes.

e. ~~(4)~~ "Worker" or "employee" includes a A student enrolled in a public school corporation or accredited nonpublic school who is participating in a school-to-work program that includes but is not limited to the components provided for in section 258.10, subsection 2, paragraphs "a" through "f". "Worker" or "employee" also includes a

~~(5)~~ A student enrolled in a community college as defined in section 260C.2, who is participating in a school-to-work program that includes but is not limited to the components provided for in section 258.10, subsection 2, paragraphs "a" through "f", and that is offered by the community college pursuant to a contractual agreement with a school corporation or accredited nonpublic school to provide the program.

f. b. The term "worker" or "employee" shall include the singular and plural. Any reference to a worker or employee who has been injured shall, when such worker or employee is dead, include the worker's or employee's dependents as herein defined or the worker's or employee's legal representatives; and where the worker or employee is a minor or incompetent, it shall include the minor's or incompetent's guardian, next friend, or trustee. Notwithstanding any law prohibiting the employment of minors, all minor employees shall be entitled to the benefits of this chapter and chapters 86 and 87 regardless of the age of such minor employee.

g. c. The following persons shall not be deemed "workers" or "employees":

(1) A person whose employment is purely casual and not for the purpose of the employer's trade or business except as otherwise provided in section 85.1.

(2) An independent contractor.

(3) An owner-operator who, as an individual or partner, or shareholder of a corporate owner-operator, owns a vehicle licensed and registered as a truck, road tractor, or truck tractor by a governmental agency, is an independent contractor while performing services in the operation of the owner-operator's vehicle if all of the following conditions are substantially present:

(a) The owner-operator is responsible for the maintenance of the vehicle.

(b) The owner-operator bears the principal burden of the vehicle's operating costs, including fuel, repairs, supplies, collision insurance, and personal expenses for the operator while on the road.

(c) The owner-operator is responsible for supplying the necessary personnel to operate the vehicle, and the personnel are considered the owner-operator's employees.

(d) The owner-operator's compensation is based on factors related to the work performed, including a percentage of any schedule of rates or lawfully published tariff, and not on the basis of the hours or time expended.

(e) The owner-operator determines the details and means of performing the services, in conformance with regulatory requirements, operating procedures of the carrier, and specifications of the shipper.

(f) The owner-operator enters into a contract which specifies the relationship to be that of an independent contractor and not that of an employee.

(4) Directors of a corporation who are not at the same time employees of the corporation; or directors, trustees, officers, or other managing officials of a nonprofit corporation or association who are not at the same time full-time employees of the nonprofit corporation or association.

(5) Proprietors, limited liability company members, limited liability partners, and partners who have not elected to be covered by the workers' compensation law of this state pursuant to section 85.1A.

Sec. 92. Section 88.8, subsection 3, Code 2007, is amended to read as follows:

3. CONTESTED NOTICE.

a. If an employer notifies the commissioner that the employer intends to contest a citation issued under section 88.7, or notification issued under subsection 1 or 2 of this section or if, within fifteen working days of the issuance of a citation under section 88.7, any employee or authorized employee representative files a notice with the commissioner alleging that the period of time fixed in the citation for the abatement of the violation is unreasonable, the commissioner shall immediately advise the appeal board of such notification, and the appeal board shall afford an opportunity for a hearing.

b. At the hearing, the appeal board shall act as an adjudicatory body. The appeal board shall thereafter issue an order, based on findings of fact, affirming, modifying, or vacating the commissioner's citation or proposed penalty or directing other appropriate relief, and such order shall become final thirty days after its issuance.

c. Upon a showing by an employer of a good faith effort to comply with the abatement requirements of a citation, and that abatement has not been completed because of factors beyond the employer's reasonable control, the commissioner, after an opportunity for a hearing shall issue an order affirming or modifying the abatement requirements in such citation.

d. The rules of procedure prescribed by the appeal board shall provide affected employees or representatives of affected employees an opportunity to participate as parties to hearings under this subsection, and shall conform to rules of procedure adopted under the federal law by federal authorities insofar as the federal rules of procedure do not conflict with state law.

4. WITHDRAWAL OF CITATION OR SETTLEMENT. The commissioner has unreviewable discretion to withdraw a citation charging an employer with violating this chapter. If the parties enter into a settlement agreement prior to a hearing, the employment appeal board shall enter an order affirming the agreement.

Sec. 93. Section 100B.1, subsection 1, Code 2007, is amended to read as follows:

1. The state fire service and emergency response council is established in the division of state fire marshal of the department of public safety.

a. The council shall consist of eleven voting members and one ex officio, nonvoting member. Members Voting members of the state fire service and emergency response council shall be appointed by the governor.

(1) The governor shall appoint voting members of the council from a list of nominees submitted by each of the following organizations:

a- (a) Two members from a list submitted by the Iowa firemen's association.

b- (b) Two members from a list submitted by the Iowa fire chiefs' association.

c- (c) One member from a list submitted by the Iowa association of professional fire fighters.

d- (d) Two members from a list submitted by the Iowa association of professional fire chiefs.

e- (e) One member from a list submitted by the Iowa fire fighters group.

f- (f) One member from a list submitted by the Iowa emergency medical services association.

(2) A person nominated for inclusion in the voting membership on the council is not required to be a member of the organization that nominates the person.

(3) The tenth and eleventh members of the council shall be members of the general public appointed by the governor.

(4) The labor commissioner, or the labor commissioner's designee, shall be a nonvoting, ex officio member of the council.

b. Members of the council shall hold office commencing July 1, 2000, for four years and until their successors are appointed, except that three initial appointees shall be appointed for two years, four initial appointees for three years, and four initial appointees for four years.

c. The fire marshal or the fire marshal's designee shall attend each meeting of the council.

Sec. 94. Section 80.34, Code Supplement 2007, is repealed.

DIVISION III
CONFORMING AMENDMENTS TO MISCELLANEOUS PROVISIONS
AND VOLUME I RENUMBERING

Sec. 95. Section 7J.1, subsection 7, paragraph b, subparagraph (3), Code 2007, is amended to read as follows:

(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 6, 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.

Sec. 96. Section 8D.13, subsection 19, Code 2007, is amended to read as follows:

19. Access to the network shall be offered to the department of public safety and the department of public defense for the purpose of establishing and operating a shared data-only network providing law enforcement, emergency management, disaster service, emergency warning, and other emergency information dissemination services to federal, state, and local law enforcement agencies as provided in ~~section~~ sections 80.9 and 80.9B, and local emergency management offices established under the authority of sections 29C.9 and 29C.10.

Sec. 97. Section 17A.8, subsection 8, Code 2007, is amended to read as follows:

8. If the committee finds objection to a rule, it may utilize the procedure provided in section 17A.4, subsection 5 6. In addition or in the alternative, the committee may include in the referral, under subsection 7, a recommendation that this rule be overcome by statute. If the committee of the general assembly to which a rule is referred finds objection to the referred rule, it may recommend to the general assembly that this rule be overcome by statute. This section shall not be construed to prevent a committee of the general assembly from reviewing a rule on its own motion.

Sec. 98. Section 19B.12, subsections 3 and 4, Code 2007, are amended to read as follows:

3. a. As used in this section, "sexual harassment" means persistent, repetitive, or highly egregious conduct directed at a specific individual or group of individuals that a reasonable person would interpret as intentional harassment of a sexual nature, taking into consideration the full context in which the conduct occurs, which conduct threatens to impair the ability of

a person to perform the duties of employment, or otherwise function normally within an institution responsible for the person's care, rehabilitation, education, or training.

b. "Sexual harassment" may include, but is not limited to, the following:

a. (1) Unsolicited sexual advances by a person toward another person who has clearly communicated the other person's desire not to be the subject of those advances.

b. (2) Sexual advances or propositions made by a person having superior authority toward another person within the workplace or institution.

c. (3) Instances of offensive sexual remarks or speech or graphic sexual displays directed at a person in the workplace or institution, who has clearly communicated the person's objection to that conduct, and where the person is not free to avoid that conduct due to the requirements of the employment or the confines or operations of the institution.

d. (4) Dress requirements that bear no relation to the person's employment responsibilities or institutional status.

4. The department of administrative services for all state agencies, and the state board of regents for its institutions, shall adopt rules and appropriate internal, confidential grievance procedures to implement this section, and shall adopt procedures for determining violations of this section and for ordering appropriate dispositions that may include, but are not limited to, discharge, suspension, or reduction in rank or grade as defined in section 8A.413, subsection 16 ~~18~~.

Sec. 99. Section 80B.13, subsection 10, Code Supplement 2007, is amended to read as follows:

10. Secure the assistance of the state division of criminal investigation in the investigation of alleged violations, as provided under section ~~80.9~~ 80.9A, subsection ~~1~~ 6, paragraphs "c" and "g", of the provisions adopted under section 80B.11.

Sec. 100. Section 87.1, subsection 2, Code Supplement 2007, is amended to read as follows:

2. A motor carrier who contracts with an owner-operator who is acting as an independent contractor pursuant to section 85.61, subsection 11, paragraph "g" ~~"c"~~, shall not be required to insure the motor carrier's liability for the owner-operator. A motor carrier may procure compensation liability insurance coverage for these owner-operators, and may charge the owner-operator for the costs of the premiums. A motor carrier shall require the owner-operator to provide and maintain a certificate of workers' compensation insurance covering the owner-operator's employees. An owner-operator shall remain responsible for providing compensation liability insurance for the owner-operator's employees.

Sec. 101. Section 87.23, Code Supplement 2007, is amended to read as follows:

87.23 COMPENSATION LIABILITY INSURANCE NOT REQUIRED.

A corporation, association, or organization approved by the commissioner of insurance to provide compensation liability insurance shall not require a motor carrier that contracts with an owner-operator who is acting as an independent contractor pursuant to section 85.61, subsection 11, paragraph "g" ~~"c"~~, to purchase compensation liability insurance for the employer's liability for the owner-operator or its employees.

Sec. 102. Section 100B.22, subsection 6, Code Supplement 2007, is amended to read as follows:

6. The state fire marshal may adopt administrative rules under section 17A.4, subsection 2 ~~3~~, and section 17A.5, subsection 2, paragraph "b", to administer this section.

Sec. 103. Section 141A.9, subsection 2, paragraph j, Code Supplement 2007, is amended to read as follows:

j. To employees of state correctional institutions subject to the jurisdiction of the department of corrections, employees of secure facilities for juveniles subject to the department of human services, and employees of city and county jails, if the employees have direct supervi-

sion over inmates of those facilities or institutions in the exercise of the duties prescribed pursuant to section ~~80.9, subsection 2, paragraph "d"~~ 80.9B.

Sec. 104. Section 147.102, Code Supplement 2007, is amended to read as follows:

147.102 PSYCHOLOGISTS, CHIROPRACTORS, AND DENTISTS.

Notwithstanding the provisions of this subtitle, every application for a license to practice psychology, chiropractic, or dentistry shall be made directly to the chairperson, executive director, or secretary of the board of such profession, and every reciprocal agreement for the recognition of any such license issued in another state shall be negotiated by the board for such profession. All examination, license, and renewal fees received from persons licensed to practice any of such professions shall be paid to and collected by the chairperson, executive director, or secretary of the board of such profession. The salary of the secretary shall be established by the governor with the approval of the executive council pursuant to section 8A.413, subsection 2 ~~3~~, under the pay plan for exempt positions in the executive branch of government.

Sec. 105. Section 147.103A, subsection 4, Code Supplement 2007, is amended to read as follows:

4. Applications for a license shall be made to the chairperson, executive director, or secretary of the board. All examination, license, and renewal fees shall be paid to and collected by the chairperson, executive director, or secretary of the board. The salary of the executive director of the board shall be established by the governor with approval of the executive council pursuant to section 8A.413, subsection 2 ~~3~~, under the pay plan for exempt positions in the executive branch of government.

Sec. 106. Section 152.2, Code 2007, is amended to read as follows:

152.2 EXECUTIVE DIRECTOR — ASSISTANTS.

The board shall appoint a full-time executive director. The executive director shall be a registered nurse and shall not be a member of the board. The governor, with the approval of the executive council pursuant to section 8A.413, subsection 2 ~~3~~, under the pay plan for exempt positions in the executive branch of government, shall set the salary of the executive director.

Sec. 107. Section 231.22, Code 2007, is amended to read as follows:

231.22 DIRECTOR.

~~1.~~ The governor, subject to confirmation by the senate, shall appoint a director of the department of elder affairs who shall, subject to chapter 8A, subchapter IV, employ and direct staff as necessary to carry out the powers and duties created by this chapter. The director shall serve at the pleasure of the governor. However, the director is subject to reconfirmation by the senate as provided in section 2.32, subsection 8 ~~4~~. The governor shall set the salary for the director within the range set by the general assembly.

~~2.~~ The director shall have the following qualifications and training:

~~1.~~ ~~a.~~ Training in the field of gerontology, social work, public health, public administration, or other related fields.

~~2.~~ ~~b.~~ Direct experience or extensive knowledge of programs and services related to elders.

~~3.~~ ~~c.~~ Demonstrated understanding and concern for the welfare of elders.

~~4.~~ ~~d.~~ Demonstrated competency and recent working experience in an administrative, supervisory, or management position.

Sec. 108. Section 249A.20A, subsection 10, Code 2007, is amended to read as follows:

10. The department may adopt administrative rules under section 17A.4, subsection 2 ~~3~~, and section 17A.5, subsection 2, paragraph "b", to implement this section.

Sec. 109. Section 252I.1, subsection 10, Code Supplement 2007, is amended to read as follows:

10. "Working days" means only Monday, Tuesday, Wednesday, Thursday, and Friday, but excluding the holidays specified in section 1C.2, ~~subsections subsection 1 through 9~~.

Sec. 110. Section 313.4, subsections 1, 3, and 4, Code 2007, are amended to read as follows:

1. a. Said primary road fund is hereby appropriated for and shall be used in the establishment, construction and maintenance of the primary road system, including the drainage, grading, surfacing, construction of bridges and culverts, the elimination or improvement of railroad crossings, the acquiring of additional right-of-way, all other expense incurred in the construction and maintenance of said primary road system and the maintenance and housing of the department.

b. The department may expend moneys from the fund for dust control on a secondary road or municipal street within a municipal street system when there is a notable increase in traffic on the secondary road or municipal street due to closure of a road by the department for purposes of establishing, constructing, or maintaining a primary road.

3. There is appropriated from funds appropriated to the department which would otherwise revert to the primary road fund pursuant to the provisions of the Act appropriating the funds or chapter 8, an amount sufficient to pay the increase in salaries, which increase is not otherwise provided for by the general assembly in an appropriation bill, resulting from the annual review of the merit pay plan as provided in section 8A.413, subsection 2 3. The appropriation herein provided shall be in effect from the effective date of the revised pay plan to the end of the fiscal biennium in which it becomes effective.

4. a. Such fund is appropriated and shall be used by the department to provide energy and for the operation and maintenance of those primary road freeway lighting systems within the corporate boundaries of cities including energy and maintenance costs associated with interchange conflict lighting on existing and future freeway and expressway segments constructed to interstate standards.

b. The costs of serving freeway lighting for each utility providing the service shall be determined by the utilities division of the department of commerce, and rates for such service shall be no higher than necessary to recover these costs. Funds received under the provisions of this subsection shall be used solely for the operation and maintenance of a freeway lighting system.

Sec. 111. Section 321.20B, subsection 1, Code Supplement 2007, is amended to read as follows:

1. a. Notwithstanding chapter 321A, which requires certain persons to maintain proof of financial responsibility, a person shall not drive a motor vehicle on the highways of this state unless financial liability coverage, as defined in section 321.1, subsection 24B, is in effect for the motor vehicle and unless the driver has in the motor vehicle the proof of financial liability coverage card issued for the motor vehicle, or if the vehicle is registered in another state, other evidence that financial liability coverage is in effect for the motor vehicle.

b. It shall be conclusively presumed that a motor vehicle driven upon a parking lot which is available to the public without charge or which is available to customers or invitees of a business or facility without charge was driven on the highways of this state in order to enter the parking lot, and this section shall be applicable to such a motor vehicle. As used in this section, "parking lot" includes access roads, drives, lanes, aisles, entrances, and exits to and from a parking lot described in this paragraph.

c. This subsection does not apply to the operator of a motor vehicle owned by or leased to the United States, this state or another state, or any political subdivision of this state or of another state, or to a motor vehicle which is subject to section 325A.6 ~~or 327B.6~~.

Sec. 112. Section 321A.33, Code 2007, is amended to read as follows:

321A.33 EXCEPTIONS.

This chapter does not apply to any motor vehicle owned by the United States, this state, or any political subdivision of this state or to any operator, except for section 321A.4, while on official duty operating such motor vehicle. This chapter does not apply, except for sections 321A.4 and 321A.26, to any motor vehicle which is subject to section 325A.6 ~~or 327B.6~~.

Sec. 113. Section 421.17A, subsection 1, paragraph h, Code Supplement 2007, is amended to read as follows:

h. "Working days" means Monday through Friday, excluding the holidays specified in section 1C.2, subsections subsection 1 through 9.

Sec. 114. Section 455G.4, subsections 1 and 3, Code 2007, are amended to read as follows:

1. MEMBERS OF THE BOARD.

a. The Iowa comprehensive petroleum underground storage tank fund board is established consisting of the following members:

a. (1) The director of the department of natural resources, or the director's designee.

b. (2) The treasurer of state, or the treasurer's designee.

c. (3) The commissioner of insurance, or the commissioner's designee.

d. (4) Two public members appointed by the governor and confirmed by the senate to staggered four-year terms, except that of the first members appointed, one public member shall be appointed for a term of two years and one for a term of four years. A public member shall have experience, knowledge, and expertise of the subject matter embraced within this chapter. Two public members shall be appointed with experience in either, or both, financial markets or insurance.

e. (5) Two owners or operators appointed by the governor. One of the owners or operators appointed pursuant to this paragraph subparagraph 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 subparagraph shall be self-insured.

f. (6) The director of the legislative services agency, or the director's designee. The director under this paragraph subparagraph shall not participate as a voting member of the board.

b. A public member appointed pursuant to paragraph "d" "a", subparagraph (4), shall not have a conflict of interest. For purposes of this section a "conflict of interest" means an affiliation, within the twelve months before the member's appointment, with the regulated tank community, or with a person or property and casualty insurer offering competitive insurance or other means of financial assurance or which previously offered environmental hazard insurance for a member of the regulated tank community.

c. The filling of positions reserved for public representatives, vacancies, membership terms, payment of compensation and expenses, and removal of members are governed by chapter 69. Members of the board are entitled to receive reimbursement of actual expenses incurred in the discharge of their duties within the limits of funds appropriated to the board or made available to the fund. Each member of the board may also be eligible to receive compensation as provided in section 7E.6. The members shall elect a voting chairperson of the board from among the members of the board.

3. RULES AND EMERGENCY RULES.

a. The board shall adopt rules regarding its practice and procedures, develop underwriting standards, establish procedures for investigating and settling claims made against the fund, and otherwise implement and administer this chapter.

b. ~~The board may adopt administrative rules under section 17A.4, subsection 2, and section 17A.5, subsection 2, paragraph "b", to implement this subsection for one year after May 5, 1989.~~

c. ~~b.~~ Rules necessary for the implementation and collection of the environmental protection charge shall be adopted ~~on or before June 1, 1989~~.

d. ~~c.~~ Rules to facilitate and encourage the use of community remediation whenever possible shall be adopted.

e. ~~d.~~ The board shall adopt rules relating to appeal procedures which shall require the administrator to deliver notice of appeal to the affected parties within fifteen days of receipt of

notice, require that the hearing be held within one hundred eighty days of the filing of the petition unless good cause is shown for the delay, and require that a final decision be issued no later than one hundred twenty days following the close of the hearing. The time restrictions in this paragraph may be waived by mutual agreement of the parties.

Sec. 115. Section 474.1, Code 2007, is amended to read as follows:

474.1 CREATION OF DIVISION AND BOARD — ORGANIZATION.

1. A utilities division is created within the department of commerce. The policymaking body for the division is the utilities board which is created within the division. The board is composed of three members appointed by the governor and subject to confirmation by the senate, not more than two of whom shall be from the same political party. Each member appointed shall serve for six-year staggered terms beginning and ending as provided by section 69.19. Vacancies shall be filled for the unexpired portion of the term in the same manner as full-term appointments are made.

2. The utilities board shall organize by appointing an executive secretary, who shall take the same oath as the members. The board shall set the salary of the executive secretary within the limits of the pay plan for exempt positions provided for in section 8A.413, subsection 2 3, unless otherwise provided by the general assembly. The board may employ additional personnel as it finds necessary. Subject to confirmation by the senate, the governor shall appoint a member as the chairperson of the board. The chairperson shall be the administrator of the utilities division. The appointment as chairperson shall be for a two-year term which begins and ends as provided in section 69.19.

3. As used in this chapter and chapters 475A, 476, 476A, 478, 479, 479A, and 479B, “division” and “utilities division” mean the utilities division of the department of commerce.

DIVISION IV
EFFECTIVE DATE — RETROACTIVE APPLICABILITY

Sec. 116. EFFECTIVE DATE — RETROACTIVE APPLICABILITY. The section of this Act amending section 490.624, subsection 2, being deemed of immediate importance, takes effect upon enactment and applies retroactively to July 1, 1989.

Approved April 2, 2008

CHAPTER 1032

NONSUBSTANTIVE CODE CORRECTIONS

S.F. 2320

AN ACT relating to nonsubstantive Code corrections and including effective and retroactive applicability date provisions.

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

DIVISION I
MISCELLANEOUS CORRECTIONS

Section 1. Section 2.28, Code 2007, is amended to read as follows:

2.28 TELLERS.

1. After the time for the meeting of the joint convention has been designated each house shall appoint three tellers, and the six shall act as judges of the election.