

**CHAPTER 175**

**APPROPRIATIONS — HEALTH AND HUMAN SERVICES**

*H.F. 825*

**AN ACT** relating to and making appropriations to the department of human services, the department of elder affairs, the Iowa department of public health, the commission of veterans affairs and the Iowa veterans home, and the department of inspections and appeals, providing for fee increases, and including other related provisions and appropriations, and providing effective dates.

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

**DIVISION I  
GENERAL FUND AND BLOCK GRANT APPROPRIATIONS  
ELDER AFFAIRS**

Section 1. DEPARTMENT OF ELDER AFFAIRS. There is appropriated from the general fund of the state to the department of elder affairs for the fiscal year beginning July 1, 2005, and ending June 30, 2006, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For aging programs for the department of elder affairs and area agencies on aging to provide citizens of Iowa who are 60 years of age and older with case management for the frail elderly, the retired and senior volunteer program, resident advocate committee coordination, employment, and other services which may include, but are not limited to, adult day services, respite care, chore services, telephone reassurance, information and assistance, and home repair services, and for the construction of entrance ramps which make residences accessible to the physically handicapped, and for salaries, support, administration, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions with the department of elder affairs:

.....	\$	2,792,116
.....	FTEs	27.75

1. Funds appropriated in this section may be used to supplement federal funds under federal regulations. To receive funds appropriated in this section, a local area agency on aging shall match the funds with moneys from other sources according to rules adopted by the department. Funds appropriated in this section may be used for elderly services not specifically enumerated in this section only if approved by an area agency on aging for provision of the service within the area.

2. Of the funds appropriated in this section, \$174,198 shall be transferred to the office of the governor for the Iowa commission on volunteer service to be used for the retired and senior volunteer program.

**HEALTH**

Sec. 2. DEPARTMENT OF PUBLIC HEALTH. There is appropriated from the general fund of the state to the Iowa department of public health for the fiscal year beginning July 1, 2005, and ending June 30, 2006, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

**1. ADDICTIVE DISORDERS**

For reducing the prevalence of use of tobacco, alcohol, and other drugs, and treating individuals affected by addictive behaviors, including gambling, and for not more than the following full-time equivalent positions:

.....	\$	1,759,020
.....	FTEs	7.45

The department and any grantee or subgrantee of the department shall not discriminate against a nongovernmental organization that provides substance abuse treatment and prevention services or applies for funding to provide those services on the basis that the organization has a religious character.

Of the moneys appropriated in this subsection, \$30,310 shall be used to continue to provide funding to local communities that have previously received funding from the centers for disease control and prevention of the United States department of health and human services for secondhand smoke education initiatives.

2. ADULT WELLNESS

For maintaining or improving the health status of adults, with target populations between the ages of 18 through 60:

.....	\$	304,067
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3. CHILD AND ADOLESCENT WELLNESS

For promoting the optimum health status for children and adolescents from birth through 21 years of age, and for not more than the following full-time equivalent positions:

.....	\$	915,761
.....	FTEs	6.65

4. CHRONIC CONDITIONS

For serving individuals identified as having chronic conditions or special health care needs, and for not more than the following full-time equivalent positions:

.....	\$	1,265,342
.....	FTEs	1.35

Of the funds appropriated in this subsection, not more than \$100,000 shall be used to leverage federal funding through the federal Ryan White Care Act, Title II, AIDS drug assistance program supplemental drug treatment grants.

5. COMMUNITY CAPACITY

For strengthening the health care delivery system at the local level, and for not more than the following full-time equivalent positions:

.....	\$	1,264,299
.....	FTEs	9.90

Of the funds appropriated in this subsection, \$100,000 is allocated for a child vision screening program implemented through the university of Iowa hospitals and clinics in collaboration with community empowerment areas.

6. ELDERLY WELLNESS

For optimizing the health of persons 60 years of age and older:

.....	\$	9,233,985
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7. ENVIRONMENTAL HAZARDS

For reducing the public's exposure to hazards in the environment, primarily chemical hazards, and for not more than the following full-time equivalent positions:

.....	\$	401,808 <sup>1</sup>
.....	FTEs	1.50

The amount appropriated in this subsection includes \$150,000 in additional funding for childhood lead poisoning prevention activities for counties not receiving federal funding for this purpose, and of this amount, \$50,000 is allocated for a pilot project to address lead poisoning prevention and remediation activities in a three-county program in north central Iowa with a combined population of at least 50,000.

8. INFECTIOUS DISEASES

For reducing the incidence and prevalence of communicable diseases, and for not more than the following full-time equivalent positions:

.....	\$	1,078,039
.....	FTEs	5.25

9. INJURIES

For providing support and protection to victims of abuse or injury, or programs that are de-

<sup>1</sup> See chapter 179, §39 herein

signed to prevent abuse or injury, and for not more than the following full-time equivalent positions:

.....	\$	1,379,258 <sup>2</sup>
.....	FTEs	1.80

Of the funds appropriated in this subsection, not more than \$670,214 shall be used for the healthy opportunities to experience success (HOPES) – healthy families Iowa (HFI) program established pursuant to section 135.106. The department shall transfer the funding allocated for the HOPES-HFI program to the Iowa empowerment board for distribution and shall assist the board in managing the contracting for the funding. The funding shall be distributed to renew the grants that were provided to the grantees that operated the program during the fiscal year ending June 30, 2005.

Of the funds appropriated in this subsection, \$643,500 shall be credited to the emergency medical services fund created in section 135.25.

10. PUBLIC PROTECTION

For protecting the health and safety of the public through establishing standards and enforcing regulations, and for not more than the following full-time equivalent positions:

.....	\$	6,964,033 <sup>3</sup>
.....	FTEs	110.05

The office of the state medical examiner and the commissioner of public safety shall give consideration to a proposal offered by Polk county for the state criminalistics laboratory to share facilities with Polk county.

11. RESOURCE MANAGEMENT

For establishing and sustaining the overall ability of the department to deliver services to the public, and for not more than the following full-time equivalent positions:

.....	\$	1,073,884
.....	FTEs	3.00

12. IOWA COLLABORATIVE SAFETY NET PROVIDER NETWORK

The purpose of this subsection is to create a formal network of safety net providers to do all of the following: preserve and expand the health care safety net for vulnerable Iowans; emphasize preventive services and disease management, reduction of errors, continuity of care, and the medical home concept; recognize that safety net providers are the primary means of access to health care for the uninsured in this state; and provide a mechanism to identify the extent to which the uninsured in this state access health care safety net providers. Of the amount appropriated in this division of this Act for the medical assistance program, \$1,100,000 is transferred to the appropriations made in this subsection.<sup>4</sup> The amount transferred is allocated as follows:

a. To contract for a program to develop an Iowa collaborative safety net provider network:

.....	\$	450,000
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(1) The Iowa department of public health shall issue a request for proposals to select the most qualified applicant to develop and administer an Iowa collaborative safety net provider network that includes community health centers, rural health clinics, free clinics, and other safety net providers. The department shall coordinate conditions of the request for proposals with the data and information requirements of the task force on indigent care created pursuant to section 249J.14A, as enacted by 2005 Iowa Acts, House File 841,<sup>5</sup> section 16. The request for proposals shall also require the person awarded the contract to enroll as a member of the task force on indigent care. The person awarded the contract shall do all of the following:

(a) Establish an Iowa safety net provider advisory group consisting of representatives of community health centers, rural health clinics, free clinics, other safety net providers, patients, and other interested parties.

(b) Develop a planning process to logically and systematically implement the Iowa collaborative safety net provider network.

(c) In cooperation with the free clinics of Iowa and individual free clinics, the Iowa associa-

<sup>2</sup> See chapter 179, §39 herein

<sup>3</sup> See chapter 179, §39 herein

<sup>4</sup> The phrase “transferred to the Iowa department of public health for the appropriations made in this subsection.” probably intended

<sup>5</sup> Chapter 167 herein

tion of rural health clinics, and the Iowa/Nebraska primary care association, develop a database of all community health centers, rural health clinics, free clinics, and other safety net providers. The data collected shall include the demographics and needs of the vulnerable populations served, current provider capacity, and the resources and needs of the participating safety net providers.

(d) Develop network initiatives for collaboration between community health centers, rural health clinics, free clinics, other safety net providers, and other health care providers to, at a minimum, improve quality, improve efficiency, reduce errors, and provide clinical communication between providers. The network initiatives shall include, but are not limited to, activities that address all of the following:

- (i) Training.
- (ii) Information technology.
- (iii) Financial resource development.
- (iv) A referral system for ambulatory care.
- (v) A referral system for specialty care.
- (vi) Pharmaceuticals.
- (vii) Recruitment of health professionals.

(2) The Iowa department of public health shall issue a request for proposals to provide for an evaluation of the performance of the Iowa collaborative safety net provider network and its impact on the medically underserved.

b. For an incubation grant program to community health centers that receive a total score of 85 based on the evaluation criteria of the health resources and services administration of the United States department of health and human services:

..... \$ 650,000

The Iowa department of public health shall select qualified applicants eligible under this lettered paragraph, and shall approve grants in prorated amounts to all such selected qualified applicants based on the total amount of funding appropriated. A grantee shall meet all federal requirements for a federally qualified health center, including demonstrating a commitment to serve all populations in the grantee's respective medically underserved community and satisfying the administrative, management, governance, service-related, utilization of funding, and audit requirements unique to federally qualified health centers as provided under section 330 of the federal Public Health Service Act, as amended, and as codified at 42 U.S.C. § 254(b). A grant may be approved for a two-year period. However, if a grantee is approved as a federally qualified health center during the grant period, the grant and accompanying funding shall be terminated for the remainder of the grant period. If a grantee is not approved as a federally qualified health center during the grant period, the grantee may apply for a subsequent grant under this lettered paragraph on a competitive basis. A recipient of a grant under this lettered paragraph shall provide a local match of 25 percent of the grant funds received.

13. The university of Iowa hospitals and clinics under the control of the state board of regents shall not receive indirect costs from the funds appropriated in this section.

14. A local health care provider or nonprofit health care organization seeking grant moneys administered by the Iowa department of public health shall provide documentation that the provider or organization has coordinated its services with other local entities providing similar services.

15. a. The department shall apply for available federal funds for sexual abstinence education programs.

b. It is the intent of the general assembly to comply with the United States Congress' intent to provide education that promotes abstinence from sexual activity outside of marriage and reduces pregnancies, by focusing efforts on those persons most likely to father and bear children out of wedlock.

c. Any sexual abstinence education program awarded moneys under the grant program shall meet the definition of abstinence education in the federal law. Grantees shall be evaluated based upon the extent to which the abstinence program successfully communicates the goals set forth in the federal law.

Sec. 3. GAMBLING TREATMENT FUND — APPROPRIATION. In lieu of the appropriation made in section 135.150, subsection 1, there is appropriated from funds available in the gambling treatment fund created in section 135.150 to the Iowa department of public health for the fiscal year beginning July 1, 2005, and ending June 30, 2006, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

1. ADDICTIVE DISORDERS

To be utilized for the benefit of persons with addictions:

..... \$ 1,690,000

It is the intent of the general assembly that from the moneys appropriated in this subsection, persons with a dual diagnosis of substance abuse and gambling addictions shall be given priority in treatment services.

2. GAMBLING TREATMENT PROGRAM

The funds in the gambling treatment fund after the appropriation in subsection 1 is made are appropriated to the department to be used for funding of administrative costs and to provide programs which may include, but are not limited to, outpatient and follow-up treatment for persons affected by problem gambling, rehabilitation and residential treatment programs, information and referral services, education and preventive services, and financial management services. Of the amount appropriated in subsection 1, up to \$100,000 may be used for the licensing of gambling treatment programs as provided in section 135.150.

COMMISSION OF VETERANS AFFAIRS

Sec. 4. COMMISSION OF VETERANS AFFAIRS. There is appropriated from the general fund of the state to the commission of veterans affairs for the fiscal year beginning July 1, 2005, and ending June 30, 2006, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. COMMISSION OF VETERANS AFFAIRS ADMINISTRATION

For salaries, support, maintenance, miscellaneous purposes, including the war orphans educational aid fund established pursuant to chapter 35, and for not more than the following full-time equivalent positions:

..... \$ 320,717
..... FTEs 4.00

a. Of the funds appropriated in this subsection, \$50,000 shall be used by the commission to contract with the Iowa commission on volunteer service created pursuant to chapter 15H to utilize local veterans affairs commissions and the retired and senior volunteers program to increase the utilization by eligible individuals of benefits available through the federal department of veterans affairs.

b. Of the funds appropriated in this subsection, \$75,000 shall be used for the commission's costs associated with the contracts implemented under paragraph "a".

2. IOWA VETERANS HOME

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... \$ 16,309,443
..... FTEs 855.22

HUMAN SERVICES

Sec. 5. TEMPORARY ASSISTANCE FOR NEEDY FAMILIES BLOCK GRANT. There is appropriated from the fund created in section 8.41 to the department of human services for the fiscal year beginning July 1, 2005, and ending June 30, 2006, from moneys received under the federal temporary assistance for needy families (TANF) block grant pursuant to the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, and successor legislation, which are federally appropriated for the federal fiscal years beginning October 1, 2004, and ending September 30, 2005, and beginning October 1, 2005,

and ending September 30, 2006, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. To be credited to the family investment program account and used for assistance under the family investment program under chapter 239B:
  - ..... \$ 44,277,569
2. To be credited to the family investment program account and used for the job opportunities and basic skills (JOBS) program, and implementing family investment agreements, in accordance with chapter 239B:
  - ..... \$ 13,412,794
3. For field operations:
  - ..... \$ 16,702,033
4. For general administration:
  - ..... \$ 3,730,547
5. For local administrative costs:
  - ..... \$ 2,181,296
6. For state child care assistance:
  - ..... \$ 14,556,560
  - a. Of the funds appropriated in this subsection, \$200,000 shall be used for provision of educational opportunities to registered child care home providers in order to improve services and programs offered by this category of providers and to increase the number of providers. The department may contract with institutions of higher education or child care resource and referral centers to provide the educational opportunities. Allowable administrative costs under the contracts shall not exceed 5 percent. The application for a grant shall not exceed two pages in length.
  - b. The funds appropriated in this subsection shall be transferred to the child care and development block grant appropriation.
7. For mental health and developmental disabilities community services:
  - ..... \$ 4,798,979
8. For child and family services:
  - ..... \$ 31,538,815
9. For child abuse prevention grants:
  - ..... \$ 250,000
10. For pregnancy prevention grants on the condition that family planning services are funded:
  - ..... \$ 2,520,037
  - a. If the department receives approval of a waiver from the centers for Medicare and Medicaid services of the United States department of health and human services to provide family planning services, of the amount appropriated in this subsection, \$533,580 shall be transferred to the appropriation in this Act for child and family services.
  - b. Pregnancy prevention grants shall be awarded to programs in existence on or before July 1, 2005, if the programs are comprehensive in scope and have demonstrated positive outcomes. Grants shall be awarded to pregnancy prevention programs which are developed after July 1, 2005, if the programs are comprehensive in scope and are based on existing models that have demonstrated positive outcomes. Grants shall comply with the requirements provided in 1997 Iowa Acts, chapter 208, section 14, subsections 1 and 2, including the requirement that grant programs must emphasize sexual abstinence. Priority in the awarding of grants shall be given to programs that serve areas of the state which demonstrate the highest percentage of unplanned pregnancies of females of childbearing age within the geographic area to be served by the grant.
11. For technology needs and other resources necessary to meet federal welfare reform reporting, tracking, and case management requirements:
  - ..... \$ 1,037,186

12. For the healthy opportunities for parents to experience success (HOPES) program administered by the Iowa department of public health to target child abuse prevention:

..... \$ 200,000

13. To be credited to the state child care assistance appropriation made in this section to be used for funding of community-based early childhood programs targeted to children from birth through five years of age, developed by community empowerment areas as provided in section 28.9, as amended by this Act:

..... \$ 7,350,000

The department shall transfer TANF block grant funding appropriated and allocated in this subsection to the child care and development block grant appropriation in accordance with federal law as necessary to comply with the provisions of this subsection.

14. For a pilot program to be established in a judicial district, selected by the department and the judicial council, to provide employment and support services to delinquent child support obligors as an alternative to commitment to jail as punishment for contempt of court:

..... \$ 200,000

Of the amounts appropriated in this section, \$12,808,841 for the fiscal year beginning July 1, 2005, shall be transferred to the appropriation of the federal social services block grant for that fiscal year. If the federal government revises requirements to reduce the amount that may be transferred to the federal social services block grant, it is the intent of the general assembly to act expeditiously during the 2006 legislative session to adjust appropriations or the transfer amount or take other actions to address the reduced amount.

Sec. 6. FAMILY INVESTMENT PROGRAM ACCOUNT.

1. Moneys credited to the family investment program (FIP) account for the fiscal year beginning July 1, 2005, and ending June 30, 2006, shall be used to provide assistance in accordance with chapter 239B.

2. The department may use a portion of the moneys credited to the FIP account under this section as necessary for salaries, support, maintenance, and miscellaneous purposes and for not more than the following full-time equivalent positions which are in addition to any other full-time equivalent positions authorized in this division of this Act:

..... FTEs 17.33

3. Moneys appropriated in this division of this Act and credited to the FIP account for the fiscal year beginning July 1, 2005, and ending June 30, 2006, are allocated as follows:

a. For the family development and self-sufficiency grant program as provided under section 217.12:

..... \$ 5,133,042

(1) Of the funds allocated for the family development and self-sufficiency grant program in this lettered paragraph, not more than 5 percent of the funds shall be used for the administration of the grant program.

(2) The department may continue to implement the family development and self-sufficiency grant program statewide during FY 2005-2006.

b. For the diversion subaccount of the FIP account:

..... \$ 2,814,000

(1) A portion of the moneys allocated for the subaccount may be used for field operations salaries, data management system development, and implementation costs and support deemed necessary by the director of human services in order to administer the FIP diversion program.

(2) Of the funds allocated in this lettered paragraph, not more than \$250,000 shall be used to develop or continue community-level parental obligation pilot projects. The requirements established under 2001 Iowa Acts, chapter 191, section 3, subsection 5, paragraph "c", subparagraph (3), shall remain applicable to the parental obligation pilot projects for fiscal year 2005-2006.

c. For the food stamp employment and training program:

..... \$ 64,278

4. Of the child support collections assigned under FIP, an amount equal to the federal share of support collections shall be credited to the child support recovery appropriation. Of the remainder of the assigned child support collections received by the child support recovery unit, a portion shall be credited to the FIP account and a portion may be used to increase recoveries.

5. The department may adopt emergency administrative rules for the family investment, food stamp, and medical assistance programs, if necessary, to comply with federal requirements.

Sec. 7. FAMILY INVESTMENT PROGRAM GENERAL FUND. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 2005, and ending June 30, 2006, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

To be credited to the family investment program (FIP) account and used for family investment program assistance under chapter 239B:

..... \$ 40,439,695

1. Of the funds appropriated in this section, \$9,274,134 is allocated for the JOBS program.

2. Of the funds appropriated in this section, \$100,000 shall be used to provide a grant to an Iowa-based nonprofit organization with a history of providing tax preparation assistance to low-income Iowans in order to expand the usage of the earned income tax credit. The purpose of the grant is to supply this assistance to underserved areas of the state. The grant shall be provided to an organization that has existing national foundation support for supplying such assistance that can also secure local charitable match funding.

Sec. 8. CHILD SUPPORT RECOVERY. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 2005, and ending June 30, 2006, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For child support recovery, including salaries, support, maintenance, and miscellaneous purposes and for not more than the following full-time equivalent positions:

..... \$ 7,829,317  
..... FTEs 423.00

1. The department shall expend up to \$31,000, including federal financial participation, for the fiscal year beginning July 1, 2005, for a child support public awareness campaign. The department and the office of the attorney general shall cooperate in continuation of the campaign. The public awareness campaign shall emphasize, through a variety of media activities, the importance of maximum involvement of both parents in the lives of their children as well as the importance of payment of child support obligations.

2. Federal access and visitation grant moneys shall be issued directly to private not-for-profit agencies that provide services designed to increase compliance with the child access provisions of court orders, including but not limited to neutral visitation site and mediation services.

Sec. 9. MEDICAL ASSISTANCE. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 2005, and ending June 30, 2006, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For medical assistance reimbursement and associated costs as specifically provided in the reimbursement methodologies in effect on June 30, 2005, except as otherwise expressly authorized by law, including reimbursement for abortion services, which shall be available under the medical assistance program only for those abortions which are medically necessary:

..... \$ 519,040,317<sup>6</sup>

1. Medically necessary abortions are those performed under any of the following conditions:

<sup>6</sup> See chapter 179, §40 herein



- a. The attending physician certifies that continuing the pregnancy would endanger the life of the pregnant woman.
  - b. The attending physician certifies that the fetus is physically deformed, mentally deficient, or afflicted with a congenital illness.
  - c. The pregnancy is the result of a rape which is reported within 45 days of the incident to a law enforcement agency or public or private health agency which may include a family physician.
  - d. The pregnancy is the result of incest which is reported within 150 days of the incident to a law enforcement agency or public or private health agency which may include a family physician.
  - e. Any spontaneous abortion, commonly known as a miscarriage, if not all of the products of conception are expelled.
2. The department shall utilize not more than \$60,000 of the funds appropriated in this section to continue the AIDS/HIV health insurance premium payment program as established in 1992 Iowa Acts, Second Extraordinary Session, chapter 1001, section 409, subsection 6. Of the funds allocated in this subsection, not more than \$5,000 may be expended for administrative purposes.
  3. Of the funds appropriated to the Iowa department of public health for addictive disorders, \$950,000 for the fiscal year beginning July 1, 2005, shall be transferred to the department of human services for an integrated substance abuse managed care system.
  4. If the federal centers for Medicare and Medicaid services approves a waiver request from the department, the department shall provide a period of 12 months of guaranteed eligibility for medical assistance family planning services only, regardless of the change in circumstances of a woman who was a medical assistance recipient when a pregnancy ended. The department shall also provide this guaranteed eligibility to women of childbearing age with countable income at or below 200 percent of the federal poverty level.
  5. a. The department shall aggressively pursue options for providing medical assistance or other assistance to individuals with special needs who become ineligible to continue receiving services under the early and periodic screening, diagnosis, and treatment program under the medical assistance program due to becoming 21 years of age, who have been approved for additional assistance through the department's exception to policy provisions, but who have health care needs in excess of the funding available through the exception to policy process.  
b. Of the funds appropriated in this section, \$100,000 shall be used for participation in one or more pilot projects operated by a private provider to allow the individual or individuals to receive service in the community in accordance with principles established in *Olmstead v. L.C.*, 527 U.S. 581 (1999), for the purpose of providing medical assistance or other assistance to individuals with special needs who become ineligible to continue receiving services under the early and periodic screening, diagnosis, and treatment program under the medical assistance program due to becoming 21 years of age, who have been approved for additional assistance through the department's exception to policy provisions, but who have health care needs in excess of the funding available through the exception to the policy provisions.
  6. Of the funds available in this section, up to \$3,050,082 may be transferred to the field operations or general administration appropriations in this Act for implementation and operational costs associated with Part D of the federal Medicare Prescription Drug, Improvement, and Modernization Act of 2003, Pub. L. No. 108-173.
  7. The department shall expand the health insurance data match program as directed pursuant to 2004 Iowa Acts, chapter 1175, section 119, subsection 1, paragraph "c", to also match insureds against a listing of hawk-i program enrollees. The information submitted under the expansion shall be used solely to identify third-party payors for hawk-i program enrollees and shall be kept confidential. The department, in consultation with insurance carriers, shall adopt rules to implement this subsection. The department may adopt emergency rules to implement this subsection and insurance carriers shall begin providing the information required upon adoption of the rules.

8. The department shall provide educational opportunities to providers under the medical assistance program to improve payment accuracy by avoiding mistakes and overbilling.

9. The department shall modify billing practices to allow for collection of rebates from prescription drug manufacturers under the medical assistance program for purchase of injectable drugs administered in physicians' offices.

10. The department shall adjust managed care capitation payments from the payment structure in effect as of June 30, 2004, to optimize family planning claiming.

11. The medical assistance pharmaceutical and therapeutics committee established pursuant to section 249A.20A shall develop options for increasing the savings relative to psychotropic drugs, while maintaining patient care quality. This subsection shall not be construed to amend, modify, or repeal the exception provided pursuant to section 249A.20A relating to drugs prescribed for mental illness. The committee shall submit a report of any options the committee recommends to the general assembly by January 1, 2006. Any options developed or recommended shall not be implemented without an affirmative action enacted by the general assembly.

12. The department shall expand coverage under the medical assistance program to cover smoking cessation drugs.

13. The department shall expand coverage under the medical assistance program to cover weight reduction treatments and drugs.

\*14. The department shall adopt rules to require that if a product is to be considered by the pharmaceutical and therapeutics committee established pursuant to section 249A.20A for inclusion on the preferred drug list, the pharmaceutical and therapeutics committee shall respond to all inquiries regarding the process at least 72 hours prior to a meeting of the committee to consider inclusion of the product. Additionally, the rules shall require that the committee provide a pharmaceutical manufacturer of a product with 20 days' prior written notice of consideration of the manufacturer's product for inclusion on the preferred drug list to allow adequate time for preparation of appropriate materials to be submitted to the committee for review. The rules shall also require that adequate time be provided for each interested individual to address the committee regarding a product to be considered for inclusion on the preferred drug list by the committee. A final decision regarding inclusion of a product on the preferred drug list shall not be made in an executive session of the committee.\*

Sec. 10. HEALTH INSURANCE PREMIUM PAYMENT PROGRAM. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 2005, and ending June 30, 2006, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For administration of the health insurance premium payment program, including salaries, support, maintenance, and miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	612,574
.....	FTEs	20.95

Sec. 11. MEDICAL CONTRACTS. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 2005, and ending June 30, 2006, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For medical contracts, including salaries, support, maintenance, and miscellaneous purposes:

.....	\$	14,711,985
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Sec. 12. STATE SUPPLEMENTARY ASSISTANCE.

1. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 2005, and ending June 30, 2006, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

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

For the state supplementary assistance program:

..... \$ 19,810,335

2. The department shall increase the personal needs allowance for residents of residential care facilities by the same percentage and at the same time as federal supplemental security income and federal social security benefits are increased due to a recognized increase in the cost of living. The department may adopt emergency rules to implement this subsection.

3. If during the fiscal year beginning July 1, 2005, the department projects that state supplementary assistance expenditures for a calendar year will not meet the federal pass-along requirement specified in Title XVI of the federal Social Security Act, section 1618, as codified in 42 U.S.C. § 1382g, the department may take actions including but not limited to increasing the personal needs allowance for residential care facility residents and making programmatic adjustments or upward adjustments of the residential care facility or in-home health-related care reimbursement rates prescribed in this division of this Act to ensure that federal requirements are met. In addition, the department may make other programmatic and rate adjustments necessary to remain within the amount appropriated in this section while ensuring compliance with federal requirements. The department may adopt emergency rules to implement the provisions of this subsection.

Sec. 13. CHILDREN’S HEALTH INSURANCE PROGRAM. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 2005, and ending June 30, 2006, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For maintenance of the healthy and well kids in Iowa (hawk-i) program pursuant to chapter 514I for receipt of federal financial participation under Title XXI of the federal Social Security Act, which creates the state children’s health insurance program:

..... \$ 16,618,275<sup>7</sup>

Sec. 14. CHILD CARE ASSISTANCE. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 2005, and ending June 30, 2006, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For child care programs:

..... \$ 15,800,752

1. a. Of the funds appropriated in this section, \$14,375,228 shall be used for state child care assistance in accordance with section 237A.13.

b. The department shall adopt rules to increase the upper income eligibility requirements under the state child care assistance program for families from 140 percent of the federal poverty level to 145 percent of the federal poverty level and for families with a special needs child from 175 percent of the federal poverty level to 200 percent of the federal poverty level. The poverty level changes shall take effect September 1, 2005. The department may adopt emergency rules to implement this paragraph.

2. Of the funds appropriated in this section, \$900,000 shall be used for implementation of a quality rating system for child care providers, in accordance with legislation enacted to authorize implementation of the rating system.

3. Nothing in this section shall be construed or is intended as, or shall imply, a grant of entitlement for services to persons who are eligible for assistance due to an income level consistent with the waiting list requirements of section 237A.13. Any state obligation to provide services pursuant to this section is limited to the extent of the funds appropriated in this section.

4. Of the funds appropriated in this section, \$525,524 is allocated for the statewide program for child care resource and referral services under section 237A.26.

5. The department may use any of the funds appropriated in this section as a match to obtain federal funds for use in expanding child care assistance and related programs. For the purpose of expenditures of state and federal child care funding, funds shall be considered obligated at the time expenditures are projected or are allocated to the department’s service areas. Projec-

<sup>7</sup> See chapter 179, §42 herein

tions shall be based on current and projected caseload growth, current and projected provider rates, staffing requirements for eligibility determination and management of program requirements including data systems management, staffing requirements for administration of the program, contractual and grant obligations and any transfers to other state agencies, and obligations for decategorization or innovation projects.

6. A portion of the state match for the federal child care and development block grant shall be provided through the state general fund appropriation for child development grants and other programs for at-risk children in section 279.51.

Sec. 15. JUVENILE INSTITUTIONS. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 2005, and ending June 30, 2006, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. For operation of the Iowa juvenile home at Toledo and for salaries, support, maintenance, and for not more than the following full-time equivalent positions:

.....	\$	6,226,283
.....	FTEs	130.54

2. For operation of the state training school at Eldora and for salaries, support, maintenance, and for not more than the following full-time equivalent positions:

.....	\$	9,830,692
.....	FTEs	218.53

3. A portion of the moneys appropriated in this section shall be used by the state training school and by the Iowa juvenile home for grants for adolescent pregnancy prevention activities at the institutions in the fiscal year beginning July 1, 2005.

Sec. 16. CHILD AND FAMILY SERVICES.

1. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 2005, and ending June 30, 2006, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For child and family services:

.....	\$	75,200,000
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In order to address a reduction of \$5,200,000 from the amount allocated under this appropriation in prior years for purposes of juvenile delinquent graduated sanction services, up to \$5,200,000 of the amount of federal temporary assistance for needy families block grant funding appropriated in this division of this Act for child and family services, shall be made available for purposes of juvenile delinquent graduated sanction services.

2. The department may transfer funds appropriated in this section as necessary to pay the nonfederal costs of services reimbursed under the medical assistance program or the family investment program which are provided to children who would otherwise receive services paid under the appropriation in this section. The department may transfer funds appropriated in this section to the appropriations in this division of this Act for general administration and for field operations for resources necessary to implement and operate the services funded in this section.

3. a. Of the funds appropriated in this section, up to \$35,883,519 is allocated as the statewide expenditure target under section 232.143 for group foster care maintenance and services.

b. If at any time after September 30, 2005, annualization of a service area's current expenditures indicates a service area is at risk of exceeding its group foster care expenditure target under section 232.143 by more than 5 percent, the department and juvenile court services shall examine all group foster care placements in that service area in order to identify those which might be appropriate for termination. In addition, any aftercare services believed to be needed for the children whose placements may be terminated shall be identified. The department and juvenile court services shall initiate action to set dispositional review hearings for the placements identified. In such a dispositional review hearing, the juvenile court shall determine whether needed aftercare services are available and whether termination of the placement is in the best interest of the child and the community.

c. Of the funds allocated in this subsection, \$1,465,009 is allocated as the state match funding for 50 highly structured juvenile program beds. If the number of beds provided for in this lettered paragraph is not utilized, the remaining funds allocated may be used for group foster care.

d. If House File 538<sup>8</sup> or other legislation is enacted during the 2005 session of the general assembly providing for submission of an application for federal approval of a waiver to provide coverage under the medical assistance program for children who need behavioral health care services and qualify for the care level provided by a psychiatric medical institution for children licensed under chapter 135H and are in need of treatment to cure or alleviate serious mental illness or disorder, or emotional damage as evidenced by severe anxiety, depression, withdrawal, or untoward aggressive behavior toward self or others and whose parents, guardians, or custodians are unable to provide such treatment, and the waiver is approved, the department may transfer funds appropriated in this section to the appropriation made in this division of this Act for the medical assistance program in order to pay the nonfederal share of the costs incurred under the waiver.

4. In accordance with the provisions of section 232.188, the department shall continue the program to decategorize child welfare services funding. Of the funds appropriated in this section, \$2,500,000 is allocated specifically for expenditure through the decategorization of child welfare funding pools and governance boards established pursuant to section 232.188. In addition, up to \$1,000,000 of the amount of federal temporary assistance for needy families block grant funding appropriated in this division of this Act for child and family services shall be made available for purposes of decategorization of child welfare services as provided in this subsection. Notwithstanding section 8.33, moneys allocated in this subsection that remain unencumbered or unobligated at the close of the fiscal year shall not revert but shall remain available for expenditure for the purposes designated until the close of the succeeding fiscal year.

5. A portion of the funding appropriated in this section may be used for emergency family assistance to provide other resources required for a family participating in a family preservation or reunification project to stay together or to be reunified.

6. Notwithstanding section 234.35, subsection 1, for the fiscal year beginning July 1, 2005, state funding for shelter care paid pursuant to section 234.35, subsection 1, paragraph "h", shall be limited to \$7,252,955.

7. Federal funds received by the state during the fiscal year beginning July 1, 2005, as the result of the expenditure of state funds appropriated during a previous state fiscal year for a service or activity funded under this section, are appropriated to the department to be used as additional funding for services and purposes provided for under this section. Notwithstanding section 8.33, moneys received in accordance with this subsection that remain unencumbered or unobligated at the close of the fiscal year shall not revert to any fund but shall remain available for the purposes designated until the close of the succeeding fiscal year.

8. Of the moneys appropriated in this section, not more than \$442,100 is allocated to provide clinical assessment services as necessary to continue funding of children's rehabilitation services under medical assistance in accordance with federal law and requirements. The funding allocated is the amount projected to be necessary for providing the clinical assessment services.

9. Of the funding appropriated in this section, \$3,696,285 shall be used for protective child care assistance.

10. Of the moneys appropriated in this section, up to \$2,859,851 is allocated for the payment of the expenses of court-ordered services provided to juveniles which are a charge upon the state pursuant to section 232.141, subsection 4. Of the amount allocated in this subsection, up to \$1,431,597 shall be made available to provide school-based supervision of children adjudicated under chapter 232, of which not more than \$15,000 may be used for the purpose of training. A portion of the cost of each school-based liaison officer shall be paid by the school district or other funding source as approved by the chief juvenile court officer.

a. Notwithstanding section 232.141 or any other provision of law to the contrary, the amount allocated in this subsection shall be distributed to the judicial districts as determined

<sup>8</sup> Chapter 117 herein

by the state court administrator. The state court administrator shall make the determination of the distribution amounts on or before June 15, 2005.

b. Notwithstanding chapter 232 or any other provision of law to the contrary, a district or juvenile court shall not order any service which is a charge upon the state pursuant to section 232.141 if there are insufficient court-ordered services funds available in the district court distribution amount to pay for the service. The chief juvenile court officer shall encourage use of the funds allocated in this subsection such that there are sufficient funds to pay for all court-related services during the entire year. The chief juvenile court officers shall attempt to anticipate potential surpluses and shortfalls in the distribution amounts and shall cooperatively request the state court administrator to transfer funds between the districts' distribution amounts as prudent.

c. Notwithstanding any provision of law to the contrary, a district or juvenile court shall not order a county to pay for any service provided to a juvenile pursuant to an order entered under chapter 232 which is a charge upon the state under section 232.141, subsection 4.

d. Of the funding allocated in this subsection, not more than \$100,000 may be used by the judicial branch for administration of the requirements under this subsection and for travel associated with court-ordered placements which are a charge upon the state pursuant to section 232.141, subsection 4.

11. Notwithstanding 2000 Iowa Acts, chapter 1228, section 43, the department may operate a subsidized guardianship program if the United States department of health and human services approves a waiver under Title IV-E of the federal Social Security Act or the federal Social Security Act is amended to allow Title IV-E funding to be used for subsidized guardianship, and the subsidized guardianship program can be operated without loss of Title IV-E funds.

12. Of the amount appropriated in this section, \$1,000,000 shall be transferred to the Iowa department of public health to be used for the child protection center grant program in accordance with section 135.118.

13. Of the amount appropriated in this section, \$148,000 shall be used for funding of one or more child welfare diversion and mediation pilot projects as provided in 2004 Iowa Acts, chapter 1130, section 1.

14. If the department receives federal approval to implement a waiver under Title IV-E of the federal Social Security Act to enable providers to serve children who remain in the children's families and communities, for purposes of eligibility under the medical assistance program children who participate in the waiver shall be considered to be placed in foster care.

15. Of the amount appropriated in this section, the following amounts are allocated for the indicated child welfare system improvements:

- a. For family team meetings and other family engagement efforts:
 

.....	\$ 900,000
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- b. For recruiting, training, and development of additional resource families, including but not limited to families providing kinship, foster, and adoptive care:
 

.....	\$ 325,000
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- c. For field staff working with families to have flexible funding to purchase services and other support and to fill urgent family needs:
 

.....	\$ 250,000
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- d. For funding of shelter care so that 15 emergency beds are available statewide for the fiscal year within the statewide average of 288 beds addressed in the department's shelter care plan:
 

.....	\$ 200,000
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- e. For expansion of community partnerships to prevent child abuse:
 

.....	\$ 100,000
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16. The general assembly finds that it is important for adequate, comprehensive mental health services to be available to the children of this state; that Iowa is seeking to develop a coordinated system of mental health care for children through a redesign of the children's mental health system; that Iowa is one of only two states that have not participated in the comprehensive community mental health services program for children and their families grant offered by the substance abuse and mental health services administration (SAMHSA) of the

United States department of health and human services; and that implementing such an initiative requires long-term sustainability and support. The general assembly expresses appreciation to the department for applying to SAMHSA for the comprehensive services program grant to implement a six-year project located in northeast Iowa. The purpose of the project is to create a family-driven, coordinated system of care for children with mental illness to serve as a model for developing a statewide approach based on family-provider partnerships and long-term sustainability. The general assembly strongly supports the grant application and implementation of the project as vital steps in redesigning the children's mental health system.

17. The department shall revise policies or administrative rules applicable when a breastfeeding infant is removed from the infant's home in accordance with chapter 232, to allow the infant's mother to continue to breastfeed the infant when such contact with the mother is in the best interest of the infant.

Sec. 17. ADOPTION SUBSIDY.

1. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 2005, and ending June 30, 2006, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For adoption subsidy payments and services:  
 ..... \$ 32,250,000

2. The department may transfer funds appropriated in this section to the appropriations in this Act for child and family services to be used for adoptive family recruitment and other services to achieve adoption.

3. Federal funds received by the state during the fiscal year beginning July 1, 2005, as the result of the expenditure of state funds during a previous state fiscal year for a service or activity funded under this section, are appropriated to the department to be used as additional funding for the services and activities funded under this section. Notwithstanding section 8.33, moneys received in accordance with this subsection that remain unencumbered or unobligated at the close of the fiscal year shall not revert to any fund but shall remain available for expenditure for the purposes designated until the close of the succeeding fiscal year.

Sec. 18. JUVENILE DETENTION HOME FUND. Moneys deposited in the juvenile detention home fund created in section 232.142 during the fiscal year beginning July 1, 2005, and ending June 30, 2006, are appropriated to the department of human services for the fiscal year beginning July 1, 2005, and ending June 30, 2006, for distribution as follows:

1. An amount equal to 10 percent of the costs of the establishment, improvement, operation, and maintenance of county or multicounty juvenile detention homes in the fiscal year beginning July 1, 2004. Moneys appropriated for distribution in accordance with this subsection shall be allocated among eligible detention homes, prorated on the basis of an eligible detention home's proportion of the costs of all eligible detention homes in the fiscal year beginning July 1, 2004. Notwithstanding section 232.142, subsection 3, the financial aid payable by the state under that provision for the fiscal year beginning July 1, 2005, shall be limited to the amount appropriated for the purposes of this subsection.

2. For renewal of a grant to a county with a population between 189,000 and 196,000 for implementation of the county's runaway treatment plan under section 232.195:

..... \$ 80,000

3. For continuation and expansion of the community partnership for child protection sites:  
 ..... \$ 318,000

4. For continuation of the department's minority youth and family projects under the redesign of the child welfare system:  
 ..... \$ 375,000

5. For grants to counties implementing a runaway treatment plan under section 232.195.

6. The remainder for additional allocations to county or multicounty juvenile detention homes, in accordance with the distribution requirements of subsection 1.

Sec. 19. FAMILY SUPPORT SUBSIDY PROGRAM. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 2005, and ending June 30, 2006, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For the family support subsidy program:

..... \$ 1,936,434

1. The department may use up to \$333,312 of the moneys appropriated in this section to continue the children-at-home program in current counties, of which not more than \$20,000 shall be used for administrative costs.

2. Notwithstanding section 225C.38, subsection 1, the monthly family support payment amount for the fiscal year beginning July 1, 2005, shall remain the same as the payment amount in effect on June 30, 2005.

Sec. 20. CONNER DECREE. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 2005, and ending June 30, 2006, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For building community capacity through the coordination and provision of training opportunities in accordance with the consent decree of Conner v. Branstad, No. 4-86-CV-30871 (S.D. Iowa, July 14, 1994):

..... \$ 42,623

Sec. 21. MENTAL HEALTH INSTITUTES. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 2005, and ending June 30, 2006, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. For the state mental health institute at Cherokee for salaries, support, maintenance, and miscellaneous purposes and for not more than the following full-time equivalent positions:

..... \$ 13,079,889

..... FTEs 228.00

2. For the state mental health institute at Clarinda for salaries, support, maintenance, and miscellaneous purposes and for not more than the following full-time equivalent positions:

..... \$ 7,439,591

..... FTEs 113.15

3. For the state mental health institute at Independence for salaries, support, maintenance, and miscellaneous purposes and for not more than the following full-time equivalent positions:

..... \$ 17,334,091

..... FTEs 317.80

4. For the state mental health institute at Mount Pleasant for salaries, support, maintenance, and miscellaneous purposes and for not more than the following full-time equivalent positions:

..... \$ 6,131,181

..... FTEs 100.44

Sec. 22. STATE RESOURCE CENTERS. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 2005, and ending June 30, 2006, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. For the state resource center at Glenwood for salaries, support, maintenance, and miscellaneous purposes:

..... \$ 12,600,000

2. For the state resource center at Woodward for salaries, support, maintenance, and miscellaneous purposes:

..... \$ 7,050,000



3. The department may continue to bill for state resource center services utilizing a scope of services approach used for private providers of ICFMR services, in a manner which does not shift costs between the medical assistance program, counties, or other sources of funding for the state resource centers.

4. The state resource centers may expand the time limited assessment and respite services during the fiscal year.

5. If the department's administration and the department of management concur with a finding by a state resource center's superintendent that projected revenues can reasonably be expected to pay the salary and support costs for a new employee position, or that such costs for adding a particular number of new positions for the fiscal year would be less than the over-time costs if new positions would not be added, the superintendent may add the new position or positions. If the vacant positions available to a resource center do not include the position classification desired to be filled, the state resource center's superintendent may reclassify any vacant position as necessary to fill the desired position. The superintendents of the state resource centers may, by mutual agreement, pool vacant positions and position classifications during the course of the fiscal year in order to assist one another in filling necessary positions.

6. If existing capacity limitations are reached in operating units, a waiting list is in effect for a service or a special need for which a payment source or other funding is available for the service or to address the special need, and facilities for the service or to address the special need can be provided within the available payment source or other funding, the superintendent of a state resource center may authorize opening not more than two units or other facilities and to begin implementing the service or addressing the special need during fiscal year 2005-2006.

Sec. 23. MI/MR/DD STATE CASES.

1. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 2005, and ending June 30, 2006, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For purchase of local services for persons with mental illness, mental retardation, and developmental disabilities where the client has no established county of legal settlement:

..... \$ 10,914,619<sup>9</sup>

2. For the fiscal year beginning July 1, 2005, and ending June 30, 2006, \$100,000 is allocated for state cases from the amounts appropriated from the fund created in section 8.41 to the department of human services from the funds received from the federal government under 42 U.S.C., chapter 6A, subchapter XVII, relating to the community mental health center block grant, for the federal fiscal years beginning October 1, 2003, and ending September 30, 2004, beginning October 1, 2004, and ending September 30, 2005, and beginning October 1, 2005, and ending September 30, 2006. The allocation made in this subsection shall be made prior to any other distribution allocation of the appropriated federal funds.

Sec. 24. MENTAL HEALTH AND DEVELOPMENTAL DISABILITIES — COMMUNITY SERVICES FUND. There is appropriated from the general fund of the state to the mental health and developmental disabilities community services fund created in section 225C.7 for the fiscal year beginning July 1, 2005, and ending June 30, 2006, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For mental health and developmental disabilities community services in accordance with this division of this Act:

..... \$ 17,757,890

1. Of the funds appropriated in this section, \$17,727,890 shall be allocated to counties for funding of community-based mental health and developmental disabilities services. The monies shall be allocated to a county as follows:

a. Fifty percent based upon the county's proportion of the state's population of persons with an annual income which is equal to or less than the poverty guideline established by the federal office of management and budget.

b. Fifty percent based upon the county's proportion of the state's general population.

<sup>9</sup> See chapter 179, §42 herein

2. a. A county shall utilize the funding the county receives pursuant to subsection 1 for services provided to persons with a disability, as defined in section 225C.2. However, no more than 50 percent of the funding shall be used for services provided to any one of the service populations.

b. A county shall use at least 50 percent of the funding the county receives under subsection 1 for contemporary services provided to persons with a disability, as described in rules adopted by the department.

3. Of the funds appropriated in this section, \$30,000 shall be used to support the Iowa compass program providing computerized information and referral services for Iowans with disabilities and their families.

4. a. Funding appropriated for purposes of the federal social services block grant is allocated for distribution to counties for local purchase of services for persons with mental illness or mental retardation or other developmental disability.

b. The funds allocated in this subsection shall be expended by counties in accordance with the county's approved county management plan. A county without an approved county management plan shall not receive allocated funds until the county's management plan is approved.

c. The funds provided by this subsection shall be allocated to each county as follows:

(1) Fifty percent based upon the county's proportion of the state's population of persons with an annual income which is equal to or less than the poverty guideline established by the federal office of management and budget.

(2) Fifty percent based upon the amount provided to the county for local purchase of services in the preceding fiscal year.

5. A county is eligible for funds under this section if the county qualifies for a state payment as described in section 331.439.

*\*6. If the department has data indicating that a geographic area has a substantial number of persons with mental illness who are homeless and are not being served by an existing grantee for that area under the formula grant from the federal alcohol, drug abuse, and mental health administration to provide mental health services for the homeless and the existing grantee has expressed a desire to no longer provide services or the grantee's contract was terminated by the department for nonperformance, the department shall issue a request for proposals to replace the grantee. Otherwise, the department shall maximize available funding by continuing to contract to the extent possible with those persons who are grantees as of October 1, 2005. The department shall issue a request for proposals if additional funding becomes available for expansion to persons who are not being served and it is not possible to utilize existing grantees.\**

Sec. 25. SEXUALLY VIOLENT PREDATORS.

1. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 2005, and ending June 30, 2006, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For costs associated with the commitment and treatment of sexually violent predators in the unit located at the state mental health institute at Cherokee, including costs of legal services and other associated costs, including salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	3,621,338
.....	FTEs	65.00

2. Unless specifically prohibited by law, if the amount charged provides for recoupment of at least the entire amount of direct and indirect costs, the department of human services may contract with other states to provide care and treatment of persons placed by the other states at the unit for sexually violent predators at Cherokee. The moneys received under such a contract shall be considered to be repayment receipts and used for the purposes of the appropriation made in this section.

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

Sec. 26. FIELD OPERATIONS. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 2005, and ending June 30, 2006, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For field operations, including salaries, support, maintenance, and miscellaneous purposes and for not more than the following full-time equivalent positions:

.....	\$	53,790,628
.....	FTEs	1,844.00

Priority in filling full-time equivalent positions shall be given to those positions related to child protection services.

Sec. 27. GENERAL ADMINISTRATION. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 2005, and ending June 30, 2006, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For general administration, including salaries, support, maintenance, and miscellaneous purposes and for not more than the following full-time equivalent positions:

.....	\$	13,342,196
.....	FTEs	293.00

Of the funds appropriated in this section, \$57,000 is allocated for the prevention of disabilities policy council established in section 225B.3.

Of the funds appropriated in this section, \$30,000 is allocated to the department of human services for a statewide coordinator for the program of all-inclusive care for the elderly as defined in section 249H.3. The coordinator shall work in collaboration with the department of elder affairs in carrying out the coordinator's duties.

Sec. 28. VOLUNTEERS. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 2005, and ending June 30, 2006, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For development and coordination of volunteer services:

.....	\$	109,568
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Sec. 29. MEDICAL ASSISTANCE, STATE SUPPLEMENTARY ASSISTANCE, AND SOCIAL SERVICE PROVIDERS REIMBURSED UNDER THE DEPARTMENT OF HUMAN SERVICES.

1. a. (1) For the fiscal year beginning July 1, 2005, nursing facilities shall be reimbursed at 100 percent of the modified price-based case-mix reimbursement rate. Nursing facilities reimbursed under the medical assistance program shall submit annual cost reports and additional documentation as required by rules adopted by the department.

(2) For the fiscal year beginning July 1, 2005, the total state funding amount for the nursing facility budget shall not exceed \$161,600,000. The department, in cooperation with nursing facility representatives, shall review projections for state funding expenditures for reimbursement of nursing facilities on a quarterly basis and the department shall determine if an adjustment to the medical assistance reimbursement rate is necessary in order to provide reimbursement within the state funding amount. Any temporary enhanced federal financial participation that may become available to the Iowa medical assistance program during the fiscal year shall not be used in projecting the nursing facility budget. Notwithstanding 2001 Iowa Acts, chapter 192, section 4, subsection 2, paragraph "c", and subsection 3, paragraph "a", subparagraph (2), if the state funding expenditures for the nursing facility budget for the fiscal year beginning July 1, 2005, are projected to exceed the amount specified in this subparagraph, the department shall adjust the inflation factor of the reimbursement rate calculation for only the nursing facilities reimbursed under the case-mix reimbursement system to maintain expenditures of the nursing facility budget within the specified amount.

(3) For recalculation of the per diem cost and the patient-day-weighted medians used in rate setting for nursing facilities effective July 1, 2005, the inflation factor applied from the midpoint of the cost report period to the first day of the state fiscal year rate period shall not be less than zero percent.

b. For the fiscal year beginning July 1, 2005, the department shall reimburse pharmacy dispensing fees using a single rate of \$4.39 per prescription, or the pharmacy's usual and customary fee, whichever is lower.

c. For the fiscal year beginning July 1, 2005, reimbursement rates for inpatient and outpatient hospital services shall be increased by 3 percent over the rates in effect on June 30, 2005. The department shall continue the outpatient hospital reimbursement system based upon ambulatory patient groups implemented pursuant to 1994 Iowa Acts, chapter 1186, section 25, subsection 1, paragraph "f". In addition, the department shall continue the revised medical assistance payment policy implemented pursuant to that paragraph to provide reimbursement for costs of screening and treatment provided in the hospital emergency room if made pursuant to the prospective payment methodology developed by the department for the payment of outpatient services provided under the medical assistance program. Any rebasing of hospital inpatient or outpatient rates shall not increase total payments for inpatient and outpatient services beyond the 3 percent increase provided in this paragraph.

d. For the fiscal year beginning July 1, 2005, reimbursement rates for rural health clinics, hospices, independent laboratories, and acute mental hospitals shall be increased in accordance with increases under the federal Medicare program or as supported by their Medicare audited costs.

e. (1) For the fiscal year beginning July 1, 2005, reimbursement rates for home health agencies shall be increased by 3 percent over the rates in effect on June 30, 2005, not to exceed a home health agency's actual allowable cost.

(2) The department shall establish a fixed-fee reimbursement schedule for home health agencies under the medical assistance program beginning July 1, 2006.

f. For the fiscal year beginning July 1, 2005, federally qualified health centers shall receive cost-based reimbursement for 100 percent of the reasonable costs for the provision of services to recipients of medical assistance.

g. Beginning July 1, 2005, the reimbursement rates for dental services shall be increased by 3 percent over the rates in effect on June 30, 2005.

h. Beginning July 1, 2005, the reimbursement rates for community mental health centers shall be increased by 3 percent over the rates in effect on June 30, 2005.

i. For the fiscal year beginning July 1, 2005, the maximum reimbursement rate for psychiatric medical institutions for children shall be \$156.03 per day.

j. For the fiscal year beginning July 1, 2005, unless otherwise specified in this Act, all noninstitutional medical assistance provider reimbursement rates shall be increased by 3 percent over the rates in effect on June 30, 2005, except for area education agencies, local education agencies, infant and toddler services providers, and those providers whose rates are required to be determined pursuant to section 249A.20.

k. Notwithstanding section 249A.20, for the fiscal year beginning July 1, 2005, the average reimbursement rate for health care providers eligible for use of the federal Medicare resource-based relative value scale reimbursement methodology under that section shall be increased by 3 percent over the rate in effect on June 30, 2005; however, this rate shall not exceed the maximum level authorized by the federal government.

2. For the fiscal year beginning July 1, 2005, the reimbursement rate for residential care facilities shall not be less than the minimum payment level as established by the federal government to meet the federally mandated maintenance of effort requirement. The flat reimbursement rate for facilities electing not to file semiannual cost reports shall not be less than the minimum payment level as established by the federal government to meet the federally mandated maintenance of effort requirement.

3. For the fiscal year beginning July 1, 2005, the reimbursement rate for providers reimbursed under the in-home-related care program shall not be less than the minimum payment

level as established by the federal government to meet the federally mandated maintenance of effort requirement.

4. Unless otherwise directed in this section, when the department's reimbursement methodology for any provider reimbursed in accordance with this section includes an inflation factor, this factor shall not exceed the amount by which the consumer price index for all urban consumers increased during the calendar year ending December 31, 2002.

5. Notwithstanding section 234.38, in the fiscal year beginning July 1, 2005, the foster family basic daily maintenance rate and the maximum adoption subsidy rate for children ages 0 through 5 years shall be \$14.91, the rate for children ages 6 through 11 years shall be \$15.58, the rate for children ages 12 through 15 years shall be \$17.18, and the rate for children ages 16 and older shall be \$17.27.

6. For the fiscal year beginning July 1, 2005, the maximum reimbursement rates for social service providers shall be increased by 3 percent over the rates in effect on June 30, 2005, or to the provider's actual and allowable cost plus inflation for each service, whichever is less. The rates may also be adjusted under any of the following circumstances:

a. If a new service was added after June 30, 2005, the initial reimbursement rate for the service shall be based upon actual and allowable costs.

b. If a social service provider loses a source of income used to determine the reimbursement rate for the provider, the provider's reimbursement rate may be adjusted to reflect the loss of income, provided that the lost income was used to support actual and allowable costs of a service purchased under a purchase of service contract.

7. The group foster care reimbursement rates paid for placement of children out of state shall be calculated according to the same rate-setting principles as those used for in-state providers unless the director of human services or the director's designee determines that appropriate care cannot be provided within the state. The payment of the daily rate shall be based on the number of days in the calendar month in which service is provided.

8. For the fiscal year beginning July 1, 2005, the reimbursement rates for rehabilitative treatment and support services providers shall be increased by 3 percent over the rates in effect on June 30, 2005. It is the intent of the general assembly that the increase in reimbursement rates authorized in this subsection shall be used for the provision of direct care with an emphasis on increasing the compensation for direct care workers.

9. a. For the fiscal year beginning July 1, 2005, the combined service and maintenance components of the reimbursement rate paid for shelter care services purchased under a contract shall be based on the financial and statistical report submitted to the department. The maximum reimbursement rate shall be \$86.20 per day. The department shall reimburse a shelter care provider at the provider's actual and allowable unit cost, plus inflation, not to exceed the maximum reimbursement rate.

b. Notwithstanding section 232.141, subsection 8, for the fiscal year beginning July 1, 2005, the amount of the statewide average of the actual and allowable rates for reimbursement of juvenile shelter care homes that is utilized for the limitation on recovery of unpaid costs shall be increased by \$2.51 over the amount in effect for this purpose in the preceding fiscal year.

c. Notwithstanding section 8A.311, commencing during the fiscal year beginning July 1, 2005, the department may enter into contracts with shelter care providers as necessary to maintain the availability of shelter care services for children in all areas of the state.

10. For the fiscal year beginning July 1, 2005, the department shall calculate reimbursement rates for intermediate care facilities for persons with mental retardation at the 80th percentile.

11. Beginning on September 1, 2005, for child care providers reimbursed under the state child care assistance program, the department shall set provider reimbursement rates based on the rate reimbursement survey completed in December 2002. The department shall set rates in a manner so as to provide incentives for a nonregistered provider to become registered. If the federal government provides additional funding for child care during the fiscal year beginning July 1, 2005, the additional funding shall be used to develop and implement an electronic billing and payment system for child care providers.

12. For the fiscal year beginning July 1, 2005, reimbursements for providers reimbursed by

the department of human services may be modified if appropriated funding is allocated for that purpose from the senior living trust fund created in section 249H.4, or as specified in appropriations from the healthy Iowans tobacco trust created in section 12.65.

13. The department may adopt emergency rules to implement this section.

Sec. 30. SHELTER CARE REQUEST FOR PROPOSALS. The department of human services shall amend the request for proposals issued on April 15, 2005, for a program to provide for the statewide availability of emergency juvenile shelter care during the fiscal year beginning July 1, 2005, to increase the statewide daily average number of beds covered under the request to 288 beds in order to include 15 unallocated beds statewide for emergency placements. However, if the date of enactment of this Act does not allow sufficient time for the department to amend the request for proposals as otherwise required by this section, the department shall apply the requirement in the negotiations with the program awarded the contract and shall include the requirement in the final contract.

Sec. 31. 2001 Iowa Acts, chapter 192, section 4, subsection 3, paragraphs e and f, as amended by 2004 Iowa Acts, chapter 1175, section 154, are amended to read as follows:

e. The department shall calculate the rate ceiling for the direct-care cost component at 120 percent of the median of case-mix adjusted costs. Nursing facilities with case-mix adjusted costs at 95 percent of the median or greater, shall receive an amount equal to their costs not to exceed 120 percent of the median. ~~Nursing facilities with case-mix adjusted costs below 95 percent of the median shall receive an excess payment allowance by having their payment rate for the direct-care cost component calculated as their case-mix adjusted cost plus 100 percent of the difference between 95 percent of the median and their case-mix adjusted cost, not to exceed 10 percent of the median of case-mix adjusted costs. Beginning July 1, 2004, nursing facilities with case-mix adjusted costs below 95 percent of the median shall receive an excess payment allowance by having their payment rate for the direct-care cost component calculated as their case-mix adjusted cost plus 50 percent of the difference between 95 percent of the median and their case-mix adjusted cost, not to exceed 10 percent of the median of case-mix adjusted costs. Any excess payment allowance realized from the direct care cost component of the modified price-based case-mix reimbursement shall be expended to increase the compensation of direct care workers or to increase the ratio of direct care workers to residents. The department of human services shall implement a new monitoring and reporting system to assess compliance with the provisions of this paragraph.~~

f. The department shall calculate the rate ceiling for the nondirect care cost component at 110 percent of the median of non-case-mix adjusted costs. Nursing facilities with non-case-mix adjusted costs at 96 percent of the median or greater shall receive an amount equal to their costs not to exceed 110 percent of the median. ~~Nursing facilities with non-case-mix adjusted costs below 96 percent of the median shall receive an excess payment allowance that is their costs plus 65 percent of the difference between 96 percent of the median and their non-case-mix adjusted costs, not to exceed 8 percent of the median of non-case-mix adjusted costs. Beginning July 1, 2004, nursing facilities with non-case-mix adjusted costs below 96 percent of the median shall receive an excess payment allowance that is their costs plus 32.5 percent of the difference between 96 percent of the median and their non-case-mix adjusted costs, not to exceed 8 percent of the median of non-case-mix adjusted costs. Any excess payment allowance realized from the nondirect care cost component of the modified price-based case-mix reimbursement shall be used to fund quality of life improvements. The department of human services shall implement a new monitoring and reporting system to assess compliance with the provisions of this paragraph.~~

Sec. 32. 2003 Iowa Acts, chapter 178, section 45, unnumbered paragraph 3, as enacted by 2004 Iowa Acts, chapter 1175, section 160, is amended to read as follows:

Notwithstanding section 8.33, moneys appropriated in this section that remain unencumbered or unobligated at the close of the fiscal year shall not revert but shall remain available

for expenditure for the child and family services until the close of the ~~succeeding~~ fiscal year beginning July 1, 2005.

Sec. 33. 2004 Iowa Acts, chapter 1175, section 109, subsection 2, paragraph g, is amended to read as follows:

g. Notwithstanding section 8.33, up to ~~\$500,000~~ \$1,000,000 of the Iowa veterans home revenues that remain unencumbered or unobligated at the close of the fiscal year shall not revert but shall remain available to be used in the succeeding fiscal year.

Sec. 34. 2004 Iowa Acts, chapter 1175, section 113, is amended by adding the following new subsection:

NEW SUBSECTION. 5. Notwithstanding section 8.33, moneys appropriated in this section that were allocated by the department for the purpose of meeting federal food stamp electronic benefit transfer requirements that remain unencumbered or unobligated at the close of the fiscal year shall not revert but shall remain available for expenditure for the purpose designated until the close of the succeeding fiscal year.

Sec. 35. 2004 Iowa Acts, chapter 1175, section 134, is amended by adding the following new subsection:

NEW SUBSECTION. 3. Notwithstanding section 8.33, moneys appropriated in this section that remain unencumbered or unobligated at the close of the fiscal year shall not revert but shall remain available for expenditure for the purposes designated until the close of the succeeding fiscal year.

Sec. 36. 2004 Iowa Acts, chapter 1175, section 135, is amended by adding the following new subsection:

NEW SUBSECTION. 3. Notwithstanding section 8.33, moneys appropriated in this section for field operations that remain unencumbered or unobligated at the close of the fiscal year shall not revert but shall remain available for expenditure for the purposes designated with up to fifty percent to be used for implementation and operational costs associated with Part D of the federal Medicare Prescription Drug, Improvement, and Modernization Act of 2003, Pub. L. No. 108-173, until the close of the succeeding fiscal year.

Sec. 37. EMERGENCY RULES. If specifically authorized by a provision of this division of this Act, the department of human services or the mental health, mental retardation, developmental disabilities, and brain injury commission may adopt administrative rules under section 17A.4, subsection 2, and section 17A.5, subsection 2, paragraph "b", to implement the provisions and the rules shall become effective immediately upon filing or on a later effective date specified in the rules, unless the effective date is delayed by the administrative rules review committee. Any rules adopted in accordance with this section shall not take effect before the rules are reviewed by the administrative rules review committee. The delay authority provided to the administrative rules review committee under section 17A.4, subsection 5, and section 17A.8, subsection 9, shall be applicable to a delay imposed under this section, notwithstanding a provision in those sections making them inapplicable to section 17A.5, subsection 2, paragraph "b". Any rules adopted in accordance with the provisions of this section shall also be published as notice of intended action as provided in section 17A.4.

Sec. 38. REPORTS. Any reports or information required to be compiled and submitted under this division of this Act shall be submitted to the chairpersons and ranking members of the joint appropriations subcommittee on health and human services, the legislative services agency, and the legislative caucus staffs on or before the dates specified for submission of the reports or information.

Sec. 39. INDIGENT PATIENT PROGRAM. If the Eighty-first General Assembly, 2005

Regular Session, enacts legislation subsequent to the enactment of 2005 Iowa Acts, House File 841,<sup>10</sup> relating to the medical and surgical treatment of indigent patients as provided in chapter 255 that is in conflict with the provisions of 2005 Iowa Acts, House File 841,<sup>11</sup> including provisions relating to the quota under chapter 255, the provisions of 2005 Iowa Acts, House File 841,<sup>12</sup> shall prevail.

Sec. 40. EFFECTIVE DATES. The following provisions of this division of this Act, being deemed of immediate importance, take effect upon enactment:

1. The provision under the appropriation for child and family services, relating to requirements of section 232.143 for representatives of the department of human services and juvenile court services to establish a plan for continuing group foster care expenditures for the 2005-2006 fiscal year.
2. The provision under the appropriation for child and family services, relating to the state court administrator determining allocation of court-ordered services funding by June 15, 2005.
3. The provision directing the department of human services to amend the request for proposals issued on April 15, 2005, to provide for statewide emergency juvenile shelter care.
4. The provision amending 2003 Iowa Acts, chapter 178, section 45, unnumbered paragraph 3, as enacted by 2004 Iowa Acts, chapter 1175, section 160.
5. The provision amending 2004 Iowa Acts, chapter 1175, section 109.
6. The provision amending 2004 Iowa Acts, chapter 1175, section 113.
7. The provision amending 2004 Iowa Acts, chapter 1175, section 134.
8. The provision amending 2004 Iowa Acts, chapter 1175, section 135.

DIVISION II  
 SENIOR LIVING TRUST FUND, HOSPITAL TRUST  
 FUND, AND PHARMACEUTICAL SETTLEMENT ACCOUNT

Sec. 41. DEPARTMENT OF ELDER AFFAIRS. There is appropriated from the senior living trust fund created in section 249H.4 to the department of elder affairs for the fiscal year beginning July 1, 2005, and ending June 30, 2006, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For the development and implementation of a comprehensive senior living program, including program administration and costs associated with implementation, salaries, support, maintenance, and miscellaneous purposes and for not more than the following full-time equivalent positions:

	\$	8,289,368
	FTEs	3.00

Notwithstanding section 249H.7, the department of elder affairs shall distribute up to \$400,000 of the funds appropriated in this section in a manner that will supplement and maximize federal funds under the federal Older Americans Act and shall not use the amount distributed for any administrative purposes of either the department of elder affairs or the area agencies on aging.

Sec. 42. DEPARTMENT OF INSPECTIONS AND APPEALS. There is appropriated from the senior living trust fund created in section 249H.4 to the department of inspections and appeals for the fiscal year beginning July 1, 2005, and ending June 30, 2006, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For the inspection and certification of assisted living facilities and adult day care services, including program administration and costs associated with implementation, salaries, support, maintenance, and miscellaneous purposes and for not more than the following full-time equivalent positions:

	\$	732,750
	FTEs	5.00

<sup>10</sup> Chapter 167 herein  
<sup>11</sup> Chapter 167 herein  
<sup>12</sup> Chapter 167 herein



Sec. 43. DEPARTMENT OF HUMAN SERVICES. There is appropriated from the senior living trust fund created in section 249H.4 to the department of human services for the fiscal year beginning July 1, 2005, and ending June 30, 2006, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. To supplement the medical assistance appropriation, including program administration and costs associated with implementation, salaries, support, maintenance, and miscellaneous purposes:

..... \$ 59,647,109<sup>13</sup>

2. To provide reimbursement for health care services to eligible persons through the home and community-based services waiver and the state supplementary assistance program, including program administration and data system costs associated with implementation, salaries, support, maintenance, and miscellaneous purposes and for not more than the following full-time equivalent positions:

..... \$ 1,033,406

..... FTEs 5.00

3. To implement nursing facility provider reimbursements as provided in 2001 Iowa Acts, chapter 192, section 4, subsection 2, paragraph "c":

..... \$ 29,950,000

In order to carry out the purposes of this section, the department shall transfer funds appropriated in this section to supplement other appropriations made to the department of human services.

4. Notwithstanding sections 249H.4 and 249H.5, the department of human services may use moneys from the senior living trust fund for cash flow purposes to make payments under the nursing facility or hospital upper payment limit methodology. The amount of any moneys so used shall be refunded to the senior living trust fund within the same fiscal year and in a prompt manner.

Sec. 44. ASSISTED LIVING CONVERSION GRANTS — NONREVERSION. Notwithstanding section 8.33, moneys committed from the senior living trust fund to grantees under contract to provide for conversion to assisted living programs or for development of long-term care alternatives that remain unexpended at the close of any fiscal year shall not revert to any fund but shall remain available for expenditure for purposes of the contract.

Sec. 45. IOWA FINANCE AUTHORITY. There is appropriated from the senior living trust fund created in section 249H.4 to the Iowa finance authority for the fiscal year beginning July 1, 2005, and ending June 30, 2006, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

To provide reimbursement for rent expenses to eligible persons:

..... \$ 700,000

Participation in the rent subsidy program shall be limited to only those persons who meet the nursing facility level of care for home and community-based services waiver services as established on or after July 1, 2005.

Sec. 46. HOSPITAL TRUST FUND. There is appropriated from the hospital trust fund created in section 249I.4 to the department of human services for the fiscal year beginning July 1, 2005, and ending June 30, 2006, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

To supplement the appropriations made for the medical assistance program for that fiscal year:

..... \$ 22,900,000<sup>14</sup>

Sec. 47. PHARMACEUTICAL SETTLEMENT ACCOUNT. There is appropriated from the pharmaceutical settlement account created in section 249A.33 to the department of human services for the fiscal year beginning July 1, 2005, and ending June 30, 2006, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

<sup>13</sup> See chapter 179, §41 herein

<sup>14</sup> See chapter 167, §66 herein

To supplement the appropriations made for medical contracts under the medical assistance program:

..... \$ 85,000

Sec. 48. MEDICAL ASSISTANCE PROGRAM — REVERSION TO SENIOR LIVING TRUST FUND FOR FY 2005-2006. Notwithstanding section 8.33, if moneys appropriated in this Act for purposes of the medical assistance program for the fiscal year beginning July 1, 2005, and ending June 30, 2006, from the general fund of the state, the senior living trust fund, the hospital trust fund, or the healthy Iowans tobacco trust fund<sup>15</sup> are in excess of actual expenditures for the medical assistance program and remain unencumbered or unobligated at the close of the fiscal year, the excess moneys shall not revert but shall be transferred to the senior living trust fund created in section 249H.4.

Sec. 49. EFFECTIVE DATE. The section of this division of this Act relating to nonreversion of assisted living conversion grant moneys, being deemed of immediate importance, takes effect upon enactment.

DIVISION III  
MENTAL HEALTH, MENTAL RETARDATION,  
DEVELOPMENTAL DISABILITIES,  
AND BRAIN INJURY SERVICES

Sec. 50. 2004 Iowa Acts, chapter 1175, section 173, subsection 1, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Notwithstanding section 8.33 and section 426B.5, subsection 1, paragraph “d”, moneys appropriated in this subsection that remain unencumbered or unobligated at the close of the fiscal year shall not revert but shall remain available for expenditure for the purposes designated until the close of the succeeding fiscal year.

Sec. 51. 2004 Iowa Acts, chapter 1175, section 173, subsection 2, paragraph c, is amended to read as follows:

c. For deposit in the risk pool created in the property tax relief fund and for distribution in accordance with section 426B.5, subsection 2 To the department of human services for supplementation of the appropriations made for the medical assistance program for the fiscal year beginning July 1, 2005, and ending June 30, 2006:

..... \$ 2,000,000

Sec. 52. 2004 Iowa Acts, chapter 1175, section 173, is amended by adding the following new subsections:

NEW SUBSECTION. 3. The following formula amounts shall be utilized only to calculate preliminary distribution amounts for fiscal year 2005-2006 under this section by applying the indicated formula provisions to the formula amounts and producing a preliminary distribution total for each county:

a. For calculation of an allowed growth factor adjustment amount for each county in accordance with the formula in section 331.438, subsection 2, paragraph “b”:

..... \$ 12,000,000

b. For calculation of a distribution amount for eligible counties from the per capita expenditure target pool created in the property tax relief fund in accordance with the requirements in section 426B.5, subsection 1:

..... \$ 23,925,724

c. For calculation of a distribution amount for counties from the mental health and developmental disabilities (MH/DD) community services fund in accordance with the formula provided in the appropriation made for the MH/DD community services fund for the fiscal year beginning July 1, 2005:

..... \$ 17,727,890

NEW SUBSECTION. 4. After applying the applicable statutory distribution formulas to the

<sup>15</sup> This Act as enrolled contains no appropriations from the healthy Iowans tobacco trust fund

amounts indicated in subsection 3 for purposes of producing preliminary distribution totals, the department of human services shall apply a withholding factor to adjust an eligible individual county's preliminary distribution total. An ending balance percentage for each county shall be determined by expressing the county's ending balance on a modified accrual basis under generally accepted accounting principles for the fiscal year beginning July 1, 2004, in the county's mental health, mental retardation, and developmental disabilities services fund created under section 331.424A, as a percentage of the county's gross expenditures from that fund for that fiscal year. The withholding factor for a county shall be the following applicable percent:

a. For an ending balance percentage of less than 5 percent, a withholding factor of 0 percent. In addition, a county that is subject to this lettered paragraph shall receive an inflation adjustment equal to 3 percent of the gross expenditures reported for the county's services fund for the fiscal year.

b. For an ending balance percentage of 5 or more but less than 10 percent, a withholding factor of 0 percent. In addition, a county that is subject to this lettered paragraph shall receive an inflation adjustment equal to 2 percent of the gross expenditures reported for the county's services fund for the fiscal year.

c. For an ending balance percentage of 10 or more but less than 25 percent, a withholding factor of 25 percent.

d. For an ending balance percentage of 25 percent or more, a withholding percentage of 100 percent.

**NEW SUBSECTION.** 5. The total withholding amounts applied pursuant to subsection 4 shall be equal to a withholding target amount of \$9,418,362. If the department of human services determines that the amount to be withheld in accordance with subsection 4 is not equal to the target withholding amount, the department shall adjust the withholding factors listed in subsection 4 as necessary to achieve the withholding target amount. However, in making such adjustments to the withholding factors, the department shall strive to minimize changes to the withholding factors for those ending balance percentage ranges that are lower than others and shall not adjust the zero withholding factor or the inflation adjustment percentage specified in subsection 4, paragraph "a".

**NEW SUBSECTION.** 6. a. In addition to the amount to be distributed under subsection 4, for the fiscal year beginning July 1, 2005, a county with an ending balance percentage under subsection 4 of less than zero shall receive a distribution from the sum of the following:

(1) The amounts appropriated in 2004 Iowa Acts, chapter 1175, section 132 and section 173, subsection 1, that were not distributed and did not revert at the close of the fiscal year beginning July 1, 2004.

(2) The amounts appropriated for the fiscal year beginning July 1, 2005, for the mental health and developmental disabilities community services fund and in this section that were not distributed in accordance with subsections 3, 4, and 5.

b. The amount of a county's distribution under paragraph "a" shall be equal to the county's proportion of the general population of the counties eligible to receive a distribution under this subsection.

c. The distribution amount determined under this subsection shall be included in the county's allowed growth payment determined in accordance with subsections 3, 4, and 5.

Sec. 53. **EFFECTIVE DATE.** The section of this division of this Act amending 2004 Iowa Acts, chapter 1175, section 173, subsection 1, being deemed of immediate importance, takes effect upon enactment.

#### DIVISION IV CODE CHANGES

Sec. 54. Section 15H.3, subsection 5, as enacted by 2005 Iowa Acts, House File 478,<sup>16</sup> section 3, is amended to read as follows:

5. Members shall serve staggered terms of three years beginning ~~and ending as provided~~

<sup>16</sup> Chapter 42 herein

by section 69.19 July 1. Members of the commission shall serve no more than two three-year terms. Any vacancy shall be filled in the same manner as the original appointment.

Sec. 55. NEW SECTION. 16.184 TRANSITIONAL HOUSING REVOLVING LOAN PROGRAM FUND.

1. A transitional housing revolving loan program fund is created within the authority to further the availability of affordable housing for parents that are reuniting with their children while completing or participating in substance abuse treatment. The moneys in the fund are annually appropriated to the authority to be used for the development and operation of a revolving loan program to provide financing to construct affordable transitional housing, including through new construction or acquisition and rehabilitation of existing housing. The housing provided shall be geographically located in close proximity to licensed substance abuse treatment programs. Preference in funding shall be given to projects that reunite mothers with the mothers' children.

2. Moneys transferred by the authority for deposit in the transitional housing revolving loan program fund, moneys appropriated to the transitional housing revolving loan program, and any other moneys available to and obtained or accepted by the authority for placement in the fund shall be deposited in the fund. Additionally, payment of interest, recaptures of awards, and other repayments to the transitional housing revolving loan program fund shall be credited to the fund. Notwithstanding section 12C.7, subsection 2, interest or earnings on moneys in the transitional housing revolving loan program fund shall be credited to the fund. Notwithstanding section 8.33, moneys that remain unencumbered or unobligated at the close of the fiscal year shall not revert but shall remain available for the same purpose in the succeeding fiscal year.

3. The authority shall annually allocate moneys available in the transitional housing revolving loan program fund for the development of affordable transitional housing for parents that are reuniting with the parents' children while completing or participating in substance abuse treatment. The authority shall develop a joint application process for the allocation of federal low-income housing tax credits and the funds available under this section. Moneys allocated to such projects may be in the form of loans, grants, or a combination of loans and grants.

4. The authority shall adopt rules pursuant to chapter 17A to administer this section.

Sec. 56. Section 28.9, subsection 3, Code 2005, is amended to read as follows:

3. a. An early childhood programs grant account is created in the Iowa empowerment fund under the authority of the director of human services. Moneys credited to the account are appropriated to and shall be distributed by the department of human services in the form of grants to community empowerment areas pursuant to criteria established by the Iowa board in accordance with law. The criteria shall include but are not limited to a requirement that a community empowerment area must be designated by the Iowa board in accordance with section 28.5, in order to be eligible to receive an early childhood programs grant.

b. The maximum funding amount a community empowerment area is eligible to receive from the early childhood programs grant account for a fiscal year shall be determined by applying the area's percentage of the state's average monthly family investment program population in the preceding fiscal year to the total amount credited to the account for the fiscal year.

c. A community empowerment area receiving funding from the early childhood program<sup>17</sup> grant account shall comply with any federal reporting requirements associated with the use of that funding and other results and reporting requirements established by the Iowa empowerment board. The department of human services shall provide technical assistance in identifying and meeting the federal requirements. The availability of funding provided from the account is subject to changes in federal requirements and amendments to Iowa law.

d. The moneys distributed from the early childhood program<sup>18</sup> grant account shall be used by community empowerment areas for the purposes of enhancing quality child care capacity in support of parent capability to obtain or retain employment. The moneys shall be used with

<sup>17</sup> The word "programs" probably intended

<sup>18</sup> The word "programs" probably intended

a primary emphasis on low-income families and children from birth to five years of age. Moneys shall be provided in a flexible manner and shall be used to implement strategies identified by the community empowerment area to achieve such purposes. The department of human services may use a portion of the funding appropriated to the department under this subsection for provision of technical assistance and other support to community empowerment areas developing and implementing strategies with grant moneys distributed from the account.

e. Moneys from a federal block grant that are credited to the early childhood program<sup>19</sup> grant account but are not distributed to a community empowerment area or otherwise remain unobligated or unexpended at the end of the fiscal year shall revert to the fund created in section 8.41 to be available for appropriation by the general assembly in a subsequent fiscal year.

Sec. 57. NEW SECTION. 35D.18 NET GENERAL FUND APPROPRIATION — PURPOSE.

1. The Iowa veterans home shall operate on the basis of a net appropriation from the general fund of the state. The appropriation amount shall be the net amount of state moneys projected to be needed for the Iowa veterans home for the fiscal year of the appropriation. The purpose of utilizing a net appropriation is to encourage the Iowa veterans home to operate with increased self-sufficiency, to improve quality and efficiency, and to support collaborative efforts among all providers of funding for the services available from the Iowa veterans home.

2. The net appropriation made to the Iowa veterans home may be used throughout the fiscal year in the manner necessary for purposes of cash flow management, and for cash flow management, the Iowa veterans home may temporarily draw more than the amount appropriated, provided the amount appropriated is not exceeded at the close of the fiscal year.

3. Revenues received that are attributed to the Iowa veterans home during a fiscal year shall be credited to the Iowa veterans home account and shall be considered repayment receipts as defined in section 8.2, including but not limited to all of the following:

- a. Federal veterans administration payments.
- b. Medical assistance program revenue received under chapter 249A.
- c. Federal Medicare program payments.
- d. Other revenues generated from current, new, or expanded services that the Iowa veterans home is authorized to provide.

4. For purposes of allocating moneys to the Iowa veterans home from the salary adjustment fund created in section 8.43, the Iowa veterans home shall be considered to be funded entirely with state moneys.

5. Notwithstanding section 8.33, up to five hundred thousand dollars of the Iowa veterans home revenue that remain unencumbered or unobligated at the close of the fiscal year shall not revert but shall remain available for expenditure for purposes of the Iowa veterans home until the close of the succeeding fiscal year.

Sec. 58. Section 84A.6, subsection 2, Code 2005, is amended to read as follows:

2. a. The director of the department of workforce development, in cooperation with the department of human services, shall provide job placement and training to persons referred by the department of human services under the promoting independence and self-sufficiency through employment job opportunities and basic skills program established pursuant to chapter 239B and the food stamp employment and training program.

b. The department of workforce development, in consultation with the department of human services, shall develop and implement departmental recruitment and employment practices that address the needs of former and current participants in the family investment program under chapter 239B.

Sec. 59. Section 125.2, Code 2005, is amended by adding the following new subsection: NEW SUBSECTION. A1. "Board" means the state board of health created pursuant to chapter 136.

Sec. 60. Section 125.2, subsection 6, Code 2005, is amended by striking the subsection.

<sup>19</sup> The word "programs" probably intended

Sec. 61. Section 125.3, Code 2005, is amended to read as follows:

125.3 SUBSTANCE ABUSE PROGRAM AND COMMISSION ESTABLISHED.

The Iowa department of public health shall ~~include a program which shall develop, implement, and administer a comprehensive substance abuse program pursuant to sections 125.1 to 125.43. A commission on substance abuse is created to establish certain policies governing the performance of the department in the discharge of duties imposed on it by this chapter and advise the department on other policies. The commission shall consist of nine members appointed by the governor. Appointments shall be made on the basis of interest in and knowledge of substance abuse, however two of the members shall be persons who, in their regular work, have direct contact with substance abuse clients. Only eligible electors of the state of Iowa shall be appointed.~~

Sec. 62. Section 125.7, Code 2005, is amended to read as follows:

125.7 DUTIES OF THE COMMISSION BOARD.

The ~~commission~~ board shall:

1. Approve the comprehensive substance abuse program, developed by the department pursuant to sections 125.1 to 125.43.
2. Advise the department on policies governing the performance of the department in the discharge of any duties imposed on it ~~the department~~ by law.
3. Advise or make recommendations to the governor and the general assembly relative to substance abuse treatment, intervention, ~~and education,~~ and prevention programs in this state.
4. ~~Promulgate~~ Adopt rules for subsections 1 and 6 and review other rules necessary to carry out the provisions of this chapter, subject to review in accordance with chapter 17A.
5. Investigate the work of the department relating to substance abuse, and for this purpose ~~the board~~ shall have access at any time to all books, papers, documents, and records of the department.
6. Consider and approve or disapprove all applications for a license and all cases involving the renewal, denial, suspension, or revocation of a license.
7. Act as the appeal board regarding funding decisions made by the department.

Sec. 63. Section 125.9, subsection 1, Code 2005, is amended to read as follows:

1. Plan, establish and maintain treatment, intervention, ~~and education,~~ and prevention programs as necessary or desirable in accordance with the comprehensive substance abuse program.

Sec. 64. Section 125.10, subsections 1 and 11, Code 2005, are amended to read as follows:

1. Prepare and submit a state plan subject to approval by the ~~commission board~~ and in accordance with the provisions of 42 U.S.C. sec. 4573. The state plan shall designate the department as the sole agency for supervising the administration of the plan.
11. Develop and implement, with the counsel and approval of the ~~commission board,~~ a the comprehensive plan for treatment of substance abusers, chronic substance abusers, and intoxicated persons in accordance with this chapter.

Sec. 65. Section 125.12, subsection 1, Code 2005, is amended to read as follows:

1. The ~~commission board~~ shall review a the comprehensive and ~~co-ordinated~~ substance abuse program implemented by the department for the treatment of substance abusers, chronic substance abusers, intoxicated persons, and concerned family members. Subject to the review of the ~~commission board,~~ the director shall divide the state into appropriate regions for the conduct of the program and establish standards for the development of the program on the regional level. In establishing the regions, consideration shall be given to city and county lines, population concentrations, and existing substance abuse treatment services. ~~In determining the regions, the director is not required to follow the regional map as prepared by the former office for planning and programming.~~

Sec. 66. Section 125.13, subsection 2, paragraphs a, b, i, and j, Code 2005, are amended to read as follows:

a. A hospital providing care or treatment to substance abusers or chronic substance abusers licensed under chapter 135B which is accredited by the joint commission on the accreditation of health care organizations, the commission on accreditation of rehabilitation facilities, the American osteopathic association, or another recognized organization approved by the ~~commission board~~. All survey reports from the accrediting or licensing body must be sent to the department.

b. Any practitioner of medicine and surgery or osteopathic medicine and surgery, in the practitioner's private practice. However, a program shall not be exempted from licensing by the ~~commission board~~ by virtue of its utilization of the services of a medical practitioner in its operation.

i. A substance abuse treatment program not funded by the department which is accredited or licensed by the joint commission on the accreditation of health care organizations, the commission on the accreditation of rehabilitation facilities, the American osteopathic association, or another recognized organization approved by the ~~commission board~~. All survey reports from the accrediting or licensing body must be sent to the department.

j. A hospital substance abuse treatment program that is accredited or licensed by the joint commission on the accreditation of health care organizations, the commission on the accreditation of rehabilitation facilities, the American osteopathic association, or another recognized organization approved by the ~~commission board~~. All survey reports for the hospital substance abuse treatment program from the accrediting or licensing body shall be sent to the department.

Sec. 67. Section 125.14, Code 2005, is amended to read as follows:

125.14 LICENSES — RENEWAL — FEES.

The ~~commission board~~ shall ~~meet to~~ consider all cases involving initial issuance, and renewal, denial, suspension, or revocation of a license. The department shall issue a license to an applicant whom the ~~commission board~~ determines meets the licensing requirements of this chapter. Licenses shall expire no later than three years from the date of issuance and shall be renewed upon timely application made in the same manner as for initial issuance of a license unless notice of nonrenewal is given to the licensee at least thirty days prior to the expiration of the license. The department shall not charge a fee for licensing or renewal of programs contracting with the department for provision of treatment services. A fee may be charged to other licensees.

Sec. 68. Section 125.15A, subsection 1, paragraph b, Code 2005, is amended to read as follows:

b. The ~~commission board~~ has suspended, revoked, or refused to renew the existing license of the program.

Sec. 69. Section 125.16, Code 2005, is amended to read as follows:

125.16 TRANSFER OF LICENSE OR CHANGE OF LOCATION PROHIBITED.

A license issued under this chapter may not be transferred, and the location of the physical facilities occupied or utilized by any program licensed under this chapter shall not be changed without the prior written consent of the ~~commission board~~.

Sec. 70. Section 125.17, Code 2005, is amended to read as follows:

125.17 LICENSE SUSPENSION OR REVOCATION.

Violation of any of the requirements or restrictions of this chapter or of any of the rules ~~properly established~~ ~~adopted~~ pursuant to this chapter is cause for suspension, revocation, or refusal to renew a license. The director shall at the earliest time feasible notify a licensee whose license the ~~commission board~~ is considering suspending or revoking and shall inform the licensee what changes must be made in the licensee's operation to avoid such action. The li-

licensee shall be given a reasonable time for compliance, as determined by the director, after receiving such notice or a notice that the ~~commission board~~ does not intend to renew the license. When the licensee believes compliance has been achieved, or if the licensee considers the proposed suspension, revocation, or refusal to renew unjustified, the licensee may submit pertinent information to the ~~commission~~ who board and the board shall expeditiously make a decision in the matter and notify the licensee of the decision.

Sec. 71. Section 125.18, Code 2005, is amended to read as follows:

125.18 HEARING BEFORE COMMISSION BOARD.

If a licensee under this chapter makes a written request for a hearing within thirty days of suspension, revocation, or refusal to renew a license, a hearing before the ~~commission board~~ shall be expeditiously arranged by the department of inspections and appeals whose decision is subject to review by the ~~commission board~~. ~~If the role of a commission member is inconsistent with the member's job role or function, or if any commission member feels unable for any reason to disinterestedly weigh the merits of the case before the commission, the member shall not participate in the hearing and shall not be entitled to vote on the case.~~ The ~~commission board~~ shall issue a written statement of ~~it's~~ the board's findings within thirty days after conclusion of the hearing upholding or reversing the proposed suspension, revocation, or refusal to renew a license. Action involving suspension, revocation or refusal to renew a license shall not be taken by the ~~commission board~~ unless a quorum is present at the meeting. A copy of the ~~board's~~ decision shall be promptly transmitted to the affected licensee who may, if aggrieved by the decision, seek judicial review of the actions of the ~~commission board~~ in accordance with the terms of chapter 17A.

Sec. 72. Section 125.19, Code 2005, is amended to read as follows:

125.19 REISSUANCE OR REINSTATEMENT.

After suspension, revocation, or refusal to renew a license pursuant to this chapter, the affected licensee shall not have the license reissued or reinstated within one year of the effective date of the suspension, revocation, or expiration upon refusal to renew, unless ~~by order of the commission board orders otherwise~~. After that time, proof of compliance with the requirements and restrictions of this chapter and the rules ~~established~~ adopted pursuant to this chapter must be presented to the ~~commission board~~ prior to reinstatement or reissuance of a license.

Sec. 73. Section 125.21, Code 2005, is amended to read as follows:

125.21 CHEMICAL SUBSTITUTES AND ANTAGONISTS PROGRAMS.

1. The ~~commission board~~ has exclusive power in this state to approve and license chemical substitutes and antagonists programs, and to monitor chemical substitutes and antagonists programs to ensure that the programs are operating within the rules ~~established~~ adopted pursuant to this chapter. The ~~commission board~~ shall grant approval and license if the requirements of the rules are met and no state funding is not requested. ~~This section requires approval of The chemical substitutes and antagonists programs conducted by persons exempt from the licensing requirements of this chapter by pursuant to section 125.13, subsection 2, are subject to approval and licensure under this section.~~

2. The department may do any of the following:

1. a. Provide advice, consultation, and technical assistance to chemical substitutes and antagonists programs.

2. b. ~~In its discretion, approve~~ Approve local agencies or bodies to assist it the department in carrying out the provisions of this chapter.

Sec. 74. Section 125.43A, Code 2005, is amended to read as follows:

125.43A PRESCREENING — EXCEPTION.

Except in cases of medical emergency or court ordered admissions, a person shall be admitted to a state mental health institute for substance abuse treatment only after a preliminary



intake and assessment by a department-licensed treatment facility or a hospital providing care or treatment for substance abusers licensed under chapter 135B and accredited by the joint commission on the accreditation of health care organizations, the commission on accreditation of rehabilitation facilities, the American osteopathic association, or another recognized organization approved by the ~~commission~~ board, or by a designee of a department-licensed treatment facility or a hospital other than a state mental health institute, which confirms that the admission is appropriate to the person's substance abuse service needs. A county board of supervisors may seek an admission of a patient to a state mental health institute who has not been confirmed for appropriate admission and the county shall be responsible for one hundred percent of the cost of treatment and services of the patient.

Sec. 75. Section 125.58, subsection 1, Code 2005, is amended to read as follows:

1. If the department has probable cause to believe that an institution, place, building, or agency not licensed as a substance abuse treatment and rehabilitation facility is in fact a substance abuse treatment and rehabilitation facility as defined by this chapter, and is not exempt from licensing by section 125.13, subsection 2, the ~~commission~~ board may order an inspection of the institution, place, building, or agency. If the inspector upon presenting proper identification is denied entry for the purpose of making the inspection, the inspector may, with the assistance of the county attorney of the county in which the premises are located, apply to the district court for an order requiring the owner or occupant to permit entry and inspection of the premises to determine whether there have been violations of this chapter. The investigation may include review of records, reports, and documents maintained by the facility and interviews with staff members consistent with the confidentiality safeguards of state and federal law.

Sec. 76. NEW SECTION. 135.39C ELDERLY WELLNESS SERVICES — PAYOR OF LAST RESORT.

The department shall implement elderly wellness services in a manner that ensures that the services provided are not payable by a third-party source.

Sec. 77. Section 135.150, subsection 2, Code 2005, is amended to read as follows:

2. a. Moneys appropriated to the department under this section shall be for the purpose of operating a gambling treatment program and shall be used for funding of administrative costs and to provide programs which may include, but are not limited to, outpatient and follow-up treatment for persons affected by problem gambling, rehabilitation and residential treatment programs, information and referral services, crisis call access, education and preventive services, and financial management and credit counseling services.

b. A person shall not maintain or conduct a gambling treatment program funded under this section unless the person has obtained a license for the program from the department. The department shall adopt rules to establish standards for the licensing and operation of gambling treatment programs under this section. The rules shall specify, but are not limited to specifying, the qualifications for persons providing gambling treatment services, standards for the organization and administration of gambling treatment programs, and a mechanism to monitor compliance with this section and the rules adopted under this section.

Sec. 78. Section 136.1, unnumbered paragraph 1, Code 2005, is amended to read as follows:

The state board of health shall consist of the following members: Five members learned in health-related disciplines, two members who have direct experience with substance abuse treatment or prevention, and four members representing the general public.

Sec. 79. Section 136.3, subsection 7, Code 2005, is amended to read as follows:

7. Adopt, promulgate, amend, and repeal rules and regulations consistent with law for the protection of the public health and prevention of substance abuse, and for the guidance of the

department. All rules which have been or are hereafter adopted by the department shall be ~~are~~ subject to approval by the board. ~~However, rules adopted by the commission on substance abuse for section 125.7, subsections 1 and 7, and rules adopted by the department pursuant to section 135.130 are not subject to approval by the state board of health.~~

Sec. 80. Section 136.3, Code 2005, is amended by adding the following new subsection:  
NEW SUBSECTION. 10. Perform those duties authorized pursuant to chapter 125.

Sec. 81. Section 136C.10, subsection 1, Code 2005, is amended to read as follows:

1. a. The department shall establish and collect fees for the licensing and amendment of licenses for radioactive materials, the registration of radiation machines, the periodic inspection of radiation machines and radioactive materials, and the implementation of section 136C.3, subsection 2. Fees shall be in amounts sufficient to defray the cost of administering this chapter. The license fee may include the cost of environmental surveillance activities to assess the radiological impact of activities conducted by licensees.

b. Fees collected shall be remitted to the treasurer of state who shall deposit the funds in the general fund of the state. However, the fees collected from the licensing, registration, authorization, accreditation, and inspection of radiation machines used for mammographically guided breast biopsy, screening, and diagnostic mammography shall be used to support the department's administration of this chapter and the fees collected shall be considered repayment receipts, as defined in section 8.2.

c. When a registrant or licensee fails to pay the applicable fee the department may suspend or revoke the registration or license or may issue an appropriate order. Fees for the license, amendment of a license, and inspection of radioactive material shall not exceed the fees prescribed by the United States nuclear regulatory commission.

Sec. 82. Section 144.13A, subsection 4, paragraph a, unnumbered paragraph 2, Code 2005, is amended to read as follows:

~~Beginning July 1, 2005, ten~~ Ten dollars of each registration fee is appropriated and shall be used for primary and secondary child abuse prevention programs pursuant to section 235A.1, and ten dollars of each registration fee is appropriated and shall be used for the center for congenital and inherited disorders central registry established pursuant to section 136A.6. Notwithstanding section 8.33, moneys appropriated in this unnumbered paragraph that remain unencumbered or unobligated at the close of the fiscal year shall not revert but shall remain available for expenditure for the purposes designated until the close of the succeeding fiscal year.

Sec. 83. NEW SECTION. 144.46A VITAL RECORDS FUND.

1. A vital records fund is created under the control of the department. Moneys in the fund shall be used for purposes of the purchase and maintenance of an electronic system for vital records scanning, data capture, data reporting, storage, and retrieval, and for all registration and issuance activities. Moneys in the fund may also be used for other related purposes including but not limited to the streamlining of administrative procedures and electronically linking offices of county registrars to state vital records so that the records may be issued at the county level.

2. The department shall adopt rules providing for an increase in the fees charged by the state registrar for vital records services under section 144.46 in an amount necessary to pay for the purposes designated in subsection 1.

3. Increased fees collected by the state registrar pursuant to this section shall be credited to the vital records fund. Moneys credited to the fund are appropriated to the department to be used for the purposes designated in subsection 1. Notwithstanding section 8.33, moneys credited to the fund that remain unencumbered or unobligated at the close of the fiscal year shall not revert to any fund but shall remain available for expenditure for the purposes designated.

Sec. 84. NEW SECTION. 147.28A SCOPE OF PRACTICE REVIEW COMMITTEES — FUTURE REPEAL.

1. The department shall utilize scope of practice review committees to evaluate and make recommendations to the general assembly and to the appropriate examining boards regarding all of the following issues:

- a. Requests from practitioners seeking to become newly licensed health professionals or to establish their own examining boards.
- b. Requests from health professionals seeking to expand or narrow the scope of practice of a health profession.
- c. Unresolved administrative rulemaking disputes between examining boards.

2. A scope of practice review committee established under this section shall evaluate the issues specified in subsection 1 and make recommendations regarding proposed changes to the general assembly based on the following standards and guidelines:

- a. The proposed change does not pose a significant new danger to the public.
- b. Enacting the proposed change will benefit the health, safety, or welfare of the public.
- c. The public cannot be effectively protected by other more cost-effective means.

3. A scope of practice review committee shall be limited to five members as follows:

- a. One member representing the profession seeking licensure, a new examining board, or a change in scope of practice.
- b. One member of the health profession directly impacted by, or opposed to, the proposed change.
- c. One impartial health professional who is not directly or indirectly affected by the proposed change.
- d. Two impartial members of the general public.

4. The department may contract with a school or college of public health to assist in implementing this section.

5. The department shall submit an annual progress report to the governor and the general assembly by January 15 and shall include any recommendations for legislative action as a result of review committee activities.

6. The department shall adopt rules in accordance with chapter 17A to implement this section.

7. This section is repealed July 1, 2007.

Sec. 85. Section 147.80, Code 2005, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The board of medical examiners, the board of pharmacy examiners, the board of dental examiners, and the board of nursing shall retain individual executive officers, but shall make every effort to share administrative, clerical, and investigative staffs to the greatest extent possible. The department shall annually submit a status report to the general assembly in December regarding the sharing of staff during the previous fiscal year.

Sec. 86. Section 147.82, Code 2005, is amended to read as follows:

147.82 FEES.

All Notwithstanding section 12.10, all fees shall be collected under this chapter by an examining board or the department and shall be paid to the treasurer of state and deposited in credited to the general fund of the state, except as provided in sections 147.94 and 147.102. for the following:

1. The department may retain and expend or encumber a portion of fees collected under this chapter for an examining board if the expenditure or encumbrance is directly the result of an unanticipated litigation expense or an expense associated with a scope of practice review committee created pursuant to section 147.28A. Before the department retains, expends, or encumbers funds for an unanticipated litigation expense or a scope of practice review committee, the director of the department of management shall approve the expenditure or encum-

brance. The amount of fees retained pursuant to this subsection shall not exceed five percent of the average annual fees generated by the affected examining board for the two previous fiscal years. The amount of fees retained shall be considered repayment receipts as defined in section 8.2.

2. The department may annually retain and expend not more than two hundred ninety-seven thousand nine hundred sixty-one dollars for lease and maintenance expenses from fees collected pursuant to section 147.80 by the board of dental examiners, the board of pharmacy examiners, the board of medical examiners, and the board of nursing. Fees retained by the department pursuant to this subsection shall be considered repayment receipts as defined in section 8.2.

3. The department may annually retain and expend not more than one hundred thousand dollars for reduction of the number of days necessary to process medical license requests and for reduction of the number of days needed for consideration of malpractice cases from fees collected pursuant to section 147.80 by the board of medical examiners in the fiscal year beginning July 1, 2005, and ending June 30, 2006. Fees retained by the department pursuant to this subsection shall be considered repayment receipts as defined in section 8.2 and shall be used for the purposes described in this subsection.

4. The board of dental examiners may annually retain and expend not more than one hundred forty-eight thousand sixty dollars from revenues generated pursuant to section 147.80. Fees retained by the board pursuant to this subsection shall be considered repayment receipts as defined in section 8.2 and shall be used for the purposes of regulating dental assistants.

5. The board of nursing may annually retain and expend ninety percent of the revenues generated from an increase in license and renewal fees established pursuant to section 147.80 for the practice of nursing, above the license and renewal fees in effect as of July 1, 2003. The moneys retained shall be used for any of the board's duties, including but not limited to the addition of full-time equivalent positions for program services and investigations. Revenues retained by the board pursuant to this subsection shall be considered repayment receipts as defined in section 8.2, and shall be used for the purposes described in this subsection.

6. The board of pharmacy examiners may annually retain and expend ninety percent of the revenues generated from an increase in license and renewal fees established pursuant to sections 124.301 and 147.80, and chapter 155A, for the practice of pharmacy, above the license and renewal fees in effect as of July 1, 2004. The moneys retained shall be used for any of the board's duties, including but not limited to the addition of full-time equivalent positions for program services and investigations. Revenues retained by the board pursuant to this subsection shall be considered repayment receipts as defined in section 8.2, and shall be used for the purposes described in this subsection.

7. In addition to the amounts authorized in subsections 1 through 6, the examining boards listed in section 147.80 may retain and expend ninety percent of the revenue generated from an increase in license and renewal fees established pursuant to section 147.80 for the practice of the licensed profession for which an examining board conducts examinations above the license and renewal fees in effect as of June 30, 2005. The moneys retained by an examining board shall be used for any of the board's duties, including but not limited to addition of full-time equivalent positions for program services and investigations. Revenues retained by an examining board pursuant to this subsection shall be considered repayment receipts as defined in section 8.2.

Sec. 87. Section 147.94, Code 2005, is amended to read as follows:

147.94 PHARMACISTS.

The provisions of this chapter relative to the making of application for a license, the issuance of a license, the negotiation of reciprocal agreements for recognition of foreign licenses, the collection of license and renewal fees, and the preservation of records shall not apply to the licensing of persons to practice pharmacy, but such licensing shall be governed by the following regulations:

1. Every application for a license to practice pharmacy shall be made ~~direct~~ to the secretary of the board of pharmacy examiners.
2. ~~Such a~~ license and all renewals ~~thereof of a license~~ shall be issued by ~~said~~ the board of pharmacy examiners.
3. Every reciprocal agreement for the recognition of any ~~such~~ license issued in another state shall be negotiated by ~~said~~ the board of pharmacy examiners.
4. ~~All license and renewal fees exacted from persons licensed to practice pharmacy shall be paid to and collected by the secretary of the pharmacy examiners.~~
5. ~~4.~~ All records in connection with the licensing of pharmacists shall be kept by ~~said~~ the secretary of the board of pharmacy examiners.

Sec. 88. Section 147.102, Code 2005, 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 examining board of such profession, and every reciprocal agreement for the recognition of any such license issued in another state shall be negotiated by the examining 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 examining board of such profession, ~~who shall transmit the fees to the treasurer of state for deposit into the general fund of the state.~~ 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, under the pay plan for exempt positions in the executive branch of government.

Sec. 89. Section 154A.22, Code 2005, is amended to read as follows:

154A.22 ~~DEPOSIT RECEIPT OF FEES.~~

1. ~~The~~ Except as otherwise provided in subsection 2, the department shall deposit all fees collected under the provisions of this chapter in the general fund of the state. Compensation and travel expenses of members and employees of the board, and other expenses necessary for the board to administer and carry out the provisions of this chapter shall be paid from funds appropriated from the general fund of the state.
2. The department may retain ninety percent of the revenue generated from an increase in licensure and permit fees established pursuant to section 154A.17 above the licensure and permit fees in effect as of June 30, 2005. The moneys retained by the department shall be used for any of the board's duties, including but not limited to addition of full-time equivalent positions for program services and investigations. Revenues retained by the department pursuant to this subsection shall be considered repayment receipts as defined in section 8.2.

Sec. 90. Section 155.6, Code 2005, is amended to read as follows:

155.6 ~~FUND-CREATED RECEIPT OF FEES.~~

1. ~~All~~ Except as otherwise provided in subsection 2, all fees collected under the provisions of this chapter shall be paid to the treasurer of state who shall deposit the fees in the general fund of the state. Funds shall be appropriated to the board to be used and expended by the board to pay the compensation and travel expenses of members and employees of the board, and other expenses necessary for the board to administer and carry out the provisions of this chapter.
2. The board may retain ninety percent of the revenue generated from an increase in examination, licensure, and renewal of licensure fees established pursuant to section 155.15 above the examination, licensure, and renewal of licensure fees in effect as of June 30, 2005. The moneys retained by the board shall be used for any of the board's duties, including but not limited to addition of full-time equivalent positions for program services and investigations. Revenues retained by the department pursuant to this subsection shall be considered repayment receipts as defined in section 8.2.

Sec. 91. Section 217.13, subsection 1, Code 2005, is amended to read as follows:

1. The department of human services shall establish volunteer programs designed to enhance the services provided by the department. Roles for volunteers may include but shall not be limited to parent aides, friendly visitors, commodity distributors, clerical assistants, and medical transporters, and other functions to complement and supplement the department's work with clients. Roles for volunteers shall include conservators and guardians. The department shall adopt rules for programs which are established.

Sec. 92. NEW SECTION. 217.35 FRAUD AND RECOUPMENT ACTIVITIES.

Notwithstanding the requirement for deposit of recovered moneys under section 239B.14, recovered moneys generated through fraud and recoupment activities are appropriated to the department of human services to be used for additional fraud and recoupment activities performed by the department of human services or the department of inspections and appeals. The department of human services may use the recovered moneys appropriated to add not more than five full-time equivalent positions, in addition to those funded by annual appropriations. The appropriation of the recovered moneys is subject to both of the following conditions:

1. The director of human services determines that the investment can reasonably be expected to increase recovery of assistance paid in error, due to fraudulent or nonfraudulent actions, in excess of the amount recovered in the previous fiscal year.
2. The amount expended for the additional fraud and recoupment activities shall not exceed the amount of the projected increase in assistance recovered.

Sec. 93. NEW SECTION. 218.6 TRANSFER OF APPROPRIATIONS MADE TO INSTITUTIONS.

Notwithstanding section 8.39, subsection 1, without the prior written consent and approval of the governor and the director of the department of management, the director of human services may transfer funds between the appropriations made for the same type of institution, listed as follows:

1. The state resource centers.
2. The state mental health institutes.
3. The state juvenile institutions consisting of the state training school and the Iowa juvenile home.

Sec. 94. NEW SECTION. 222.92 NET GENERAL FUND APPROPRIATION — STATE RESOURCE CENTERS.

1. The department shall operate the state resource centers on the basis of net appropriations from the general fund of the state. The appropriation amounts shall be the net amounts of state moneys projected to be needed for the state resource centers for the fiscal year of the appropriations. The purpose of utilizing net appropriations is to encourage the state resource centers to operate with increased self-sufficiency, to improve quality and efficiency, and to support collaborative efforts between the state resource centers and counties and other providers of funding for the services available from the state resource centers. The state resource centers shall not be operated under the net appropriations in a manner that results in a cost increase to the state or in cost shifting between the state, the medical assistance program, counties, or other sources of funding for the state resource centers.

2. The net appropriation made for a state resource center may be used throughout the fiscal year in the manner necessary for purposes of cash flow management, and for purposes of cash flow management, a state resource center may temporarily draw more than the amount appropriated, provided the amount appropriated is not exceeded at the close of the fiscal year.

3. Subject to the approval of the department, except for revenues segregated as provided in section 249A.11, revenues received that are attributed to a state resource center for a fiscal year shall be credited to the state resource center's account and shall be considered repayment receipts as defined in section 8.2, including but not limited to all of the following:

- a. Moneys received by the state from billings to counties under section 222.73.
  - b. The federal share of medical assistance program revenue received under chapter 249A.
  - c. Federal Medicare program payments.
  - d. Moneys received from client financial participation.
  - e. Other revenues generated from current, new, or expanded services that the state resource center is authorized to provide.
4. For purposes of allocating moneys to the state resource centers from the salary adjustment fund created in section 8.43, the state resource centers shall be considered to be funded entirely with state moneys.
5. Notwithstanding section 8.33, up to five hundred thousand dollars of a state resource center's revenue that remains unencumbered or unobligated at the close of the fiscal year shall not revert but shall remain available for expenditure for purposes of the state resource center until the close of the succeeding fiscal year.

Sec. 95. NEW SECTION. 226.9B NET GENERAL FUND APPROPRIATION — PSYCHIATRIC MEDICAL INSTITUTION FOR CHILDREN.

1. The psychiatric medical institution for children beds operated by the state at the state mental health institute at Independence, as authorized in section 135H.6, shall operate on the basis of a net appropriation from the general fund of the state. The allocation made by the department from the annual appropriation to the state mental health institute at Independence for the purposes of the beds shall be the net amount of state moneys projected to be needed for the beds for the fiscal year of the appropriation.

2. Revenues received that are attributed to the psychiatric medical institution for children beds during a fiscal year shall be credited to the mental health institute's account and shall be considered repayment receipts as defined in section 8.2, including but not limited to all of the following:

- a. The federal share of medical assistance program revenue received under chapter 249A.
- b. Moneys received through client financial participation.
- c. Other revenues directly attributable to the psychiatric medical institution for children beds.

Sec. 96. NEW SECTION. 226.9C NET GENERAL FUND APPROPRIATION — DUAL DIAGNOSIS PROGRAM.

1. The state mental health institute at Mount Pleasant shall operate the dual diagnosis mental health and substance abuse program on a net budgeting basis in which 50 percent of the actual per diem and ancillary services costs are chargeable to the patient's county of legal settlement or as a state case, as appropriate. Subject to the approval of the department, revenues attributable to the dual diagnosis program for each fiscal year, shall be deposited in the mental health institute's account and are appropriated to the department for the dual diagnosis program, including but not limited to all of the following revenues:

- a. Moneys received by the state from billings to counties under section 230.20.
- b. Moneys received from billings to the Medicare program.
- c. Moneys received from a managed care contractor providing services under contract with the department or any private third-party payor.
- d. Moneys received through client participation.
- e. Any other revenues directly attributable to the dual diagnosis program.

2. The following additional provisions are applicable in regard to the dual diagnosis program:

- a. A county may split the charges between the county's mental health, mental retardation, and developmental disabilities services fund created pursuant to section 331.424A and the county's budget for substance abuse expenditures.

- b. If an individual is committed to the custody of the department of corrections at the time the individual is referred for dual diagnosis treatment, the department of corrections shall be charged for the costs of treatment.

c. Prior to an individual's admission for dual diagnosis treatment, the individual shall have been screened through a county's central point of coordination process implemented pursuant to section 331.440 to determine the appropriateness of the treatment.

d. A county shall not be chargeable for the costs of treatment for an individual enrolled in and authorized by or decertified by a managed behavioral care plan under the medical assistance program.

e. Notwithstanding section 8.33, state mental health institute revenues related to the dual diagnosis program that remain unencumbered or unobligated at the close of the fiscal year shall not revert but shall remain available up to the amount which would allow the state mental health institute to meet credit obligations owed to counties as a result of year-end per diem adjustments for the dual diagnosis program.

Sec. 97. Section 226.19, Code 2005, is amended to read as follows:

226.19 DISCHARGE — CERTIFICATE.

1. All patients shall be discharged, by in accordance with the procedure prescribed in section 229.3 or section 229.16, whichever is applicable, immediately on regaining their the patient's good mental health.

2. If a patient's care is the financial responsibility of the state or a county, as part of the patient's discharge planning the state mental health institute shall provide assistance to the patient in obtaining eligibility for the federal state supplemental security income program.

Sec. 98. Section 227.4, Code 2005, is amended to read as follows:

227.4 STANDARDS FOR CARE OF PERSONS WITH MENTAL ILLNESS OR ~~DEVELOPMENTAL DISABILITIES~~ MENTAL RETARDATION IN COUNTY CARE FACILITIES.

The administrator, in cooperation with the department of inspections and appeals, shall recommend and the mental health, mental retardation, developmental disabilities, and brain injury commission created in section 225C.5 shall adopt standards for the care of and services to persons with mental illness or ~~developmental disabilities~~ mental retardation residing in county care facilities. The standards shall be enforced by the department of inspections and appeals as a part of the licensure inspection conducted pursuant to chapter 135C. The objective of the standards is to ensure that persons with mental illness or ~~developmental disabilities~~ mental retardation who are residents of county care facilities are not only adequately fed, clothed, and housed, but are also offered reasonable opportunities for productive work and recreational activities suited to their physical and mental abilities and offering both a constructive outlet for their energies and, if possible, therapeutic benefit. When recommending standards under this section, the administrator shall designate an advisory committee representing administrators of county care facilities, county mental health and developmental disabilities regional planning councils, and county care facility resident advocate committees to assist in the establishment of standards.

Sec. 99. Section 229A.12, Code 2005, is amended to read as follows:

229A.12 DIRECTOR OF HUMAN SERVICES — RESPONSIBILITY FOR COSTS — REIMBURSEMENT.

The director of human services shall be responsible for all costs relating to the evaluation, treatment, and services provided to a person that are incurred after the person is committed to the director's custody after the court or jury determines that the respondent is a sexually violent predator and pursuant to commitment under any provision of this chapter. If placement in a transitional release program or supervision is ordered, the director shall also be responsible for all costs related to the transitional release program or to the supervision and treatment of any person. Reimbursement may be obtained by the director from the patient and any person legally liable or bound by contract for the support of the patient for the cost of confinement or of care and treatment provided. To the extent allowed by the United States social security administration, any benefit payments received by the person pursuant to the federal Social Security Act shall be used for the costs incurred. As used in this section, "any person legally liable" does not include a political subdivision.



Sec. 100. NEW SECTION. 231.34 LIMITATION OF FUNDS USED FOR ADMINISTRATIVE PURPOSES.

Of the state funds appropriated or allocated to the department for programs of the area agencies on aging, not more than seven and one-half percent of the total amount shall be used for area agencies on aging administrative purposes.

Sec. 101. NEW SECTION. 232.1A FOSTER CARE PLACEMENT — ANNUAL GOAL.

The annual state goal for children placed in foster care that is funded under the federal Social Security Act, Title IV-E, is that not more than fifteen percent of the children will be in a foster care placement for a period of more than twenty-four months.

Sec. 102. Section 233A.1, Code 2005, is amended by adding the following new subsection: NEW SUBSECTION. 3. The number of children present at any one time at the state training school at Eldora shall not exceed the population guidelines established under 1990 Iowa Acts, chapter 1239, section 21, as adjusted for subsequent changes in the capacity at the training school.

Sec. 103. Section 233B.1, Code 2005, is amended to read as follows:

233B.1 DEFINITIONS — OBJECTS PURPOSE — POPULATION LIMIT.

1. For the purpose of this chapter, unless the context otherwise requires:

1. a. “Administrator” or “director” means the director of the department of human services.

2. b. “Home” means the Iowa juvenile home.

3. c. “Superintendent” means the superintendent of the Iowa juvenile home.

2. The Iowa juvenile home shall be maintained for the purpose of providing care, custody and education of ~~such~~ the children as are<sup>20</sup> committed to the home. ~~Such~~ The children shall be wards of the state. ~~Their~~ The children’s education shall embrace instruction in the common school branches and in such other higher branches as may be practical and will enable the children to gain useful and self-sustaining employment. The administrator and the superintendent of the home shall assist all discharged children in securing suitable homes and proper employment.

3. The number of children present at any one time at the Iowa juvenile home shall not exceed the population guidelines established under 1990 Iowa Acts, chapter 1239, section 21, as adjusted for subsequent changes in the capacity at the home.

Sec. 104. Section 234.12A, subsection 1, unnumbered paragraph 1, Code 2005, is amended to read as follows:

The department of human services ~~may establish~~ shall maintain an electronic benefits transfer program utilizing electronic funds transfer systems. The program, ~~if established,~~ shall at a minimum provide for all of the following:

Sec. 105. Section 237A.28, Code 2005, is amended to read as follows:

237A.28 CHILD CARE CREDIT FUND.

A child care credit fund is created in the state treasury under the authority of the department of human services. The moneys in the fund shall consist of moneys deposited pursuant to section 422.100 and ~~shall be used for child care services as annually are~~ appropriated by the general assembly to the department to be used for the state child care assistance program in accordance with section 237A.13.

Sec. 106. Section 239B.4, Code 2005, is amended by adding the following new subsections: NEW SUBSECTION. 3A. The department shall continue to work with the department of workforce development and local community collaborative efforts to provide support services for participants. The support services shall be directed to those participant families who would benefit from the support services and are likely to have success in achieving economic independence.

<sup>20</sup> According to enrolled Act

NEW SUBSECTION. 3B. The department shall continue to work with religious organizations and other charitable institutions to increase the availability of host homes, referred to as second chance homes, or other living arrangements under the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, § 103, and any successor legislation. The purpose of the homes or arrangements is to provide a supportive and supervised living arrangement for minor parents receiving assistance who may receive assistance while living in an alternative setting other than with their parent or legal guardian.

Sec. 107. Section 239B.11, Code 2005, is amended to read as follows:

239B.11 FAMILY INVESTMENT PROGRAM ACCOUNT — DIVERSION PROGRAM SUB-ACCOUNT — DIVERSION PROGRAM.

1. An account is established in the state treasury to be known as the family investment program account under control of the department to which shall be credited all funds appropriated by the state for the payment of assistance and JOBS program expenditures. All other moneys received at any time for these purposes, including child support revenues, shall be deposited into the account as provided by law. All assistance and JOBS program expenditures under this chapter shall be paid from the account.

2. a. A diversion program subaccount is created within the family investment program account. The subaccount may be used to provide incentives to divert applicants' a family's participation in the family investment program if the applicants meet family meets the department's income eligibility requirements for assistance the diversion program. Incentives may be provided in the form of payment or services with a focus on helping applicants to help a family to obtain or retain employment. The diversion program subaccount may also be used for payments to participants as necessary to cover the expenses of removing barriers to employment and to assist in stabilizing employment. In addition, the diversion program subaccount may be used for funding of services and payments for persons whose family investment program eligibility has ended, in order to help the persons to stabilize or improve their employment status.

b. The diversion program shall be implemented statewide in a manner that preserves local flexibility in program design. The department shall assess and screen individuals who would most likely benefit from diversion program assistance. The department may adopt additional eligibility criteria for the diversion program as necessary for compliance with federal law and for screening those families who would be most likely to become eligible for the family investment program if diversion program incentives would not be provided to the families.

Sec. 108. Section 249.3, subsection 4, paragraphs e and g, Code 2005, are amended to read as follows:

e. Receive full medical assistance benefits under chapter 249A and are not required to meet a spend-down or pay a premium to be eligible for such benefits.

g. Have income exceeding of at least one hundred thirty-five twenty percent of the federal poverty level but not exceeding the medical assistance income limit for the eligibility group for the individual person's living arrangement.

Sec. 109. Section 249A.12, subsection 6, paragraph c, Code 2005, is amended to read as follows:

c. The person's county of legal settlement shall pay for the nonfederal share of the cost of services provided under the waiver, and the state shall pay for the nonfederal share of such costs if the person does not have a county of has no legal settlement or the legal settlement is unknown so that the person is deemed to be a state case.

Sec. 110. Section 249A.12, subsection 6, Code 2005, is amended by adding the following new paragraph:

NEW PARAGRAPH. d. The county of legal settlement shall pay for one hundred percent of the nonfederal share of the costs of care provided for adults which is reimbursed under a home and community-based services waiver that would otherwise be approved for provision

in an intermediate care facility for persons with mental retardation provided under the medical assistance program.

Sec. 111. Section 249A.12, Code 2005, is amended by adding the following new subsection:  
NEW SUBSECTION. 7. When paying the necessary and legal expenses for intermediate care facility for persons with mental retardation services, the cost requirements of section 222.60 shall be considered fulfilled when payment is made in accordance with the medical assistance payment rates established by the department for intermediate care facilities for persons with mental retardation, and the state or a county of legal settlement shall not be obligated for any amount in excess of the rates.

Sec. 112. Section 249A.24, Code 2005, is amended by adding the following new subsection:  
NEW SUBSECTION. 3. The commission shall submit an annual review, including facts and findings, of the drugs on the department's prior authorization list to the department and to the members of the general assembly's joint appropriations subcommittee on health and human services.

Sec. 113. Section 249A.26, Code 2005, is amended to read as follows:  
249A.26 STATE AND COUNTY PARTICIPATION IN FUNDING FOR SERVICES TO PERSONS WITH DISABILITIES — CASE MANAGEMENT.

1. The state shall pay for one hundred percent of the nonfederal share of the services paid for under any prepaid mental health services plan for medical assistance implemented by the department as authorized by law.

2. a. The Except as provided for disallowed costs in section 249A.27, the county of legal settlement shall pay for fifty percent of the nonfederal share of the cost and the state shall have responsibility for the remaining fifty percent of the nonfederal share of the cost of case management provided to adults, day treatment, and partial hospitalization provided under the medical assistance program for persons with mental retardation, a developmental disability, or chronic mental illness. For purposes of this section, persons with mental disorders resulting from Alzheimer's disease or substance abuse shall not be considered chronically mentally ill. To the maximum extent allowed under federal law and regulations, the department shall consult with and inform a county of legal settlement's central point of coordination process, as defined in section 331.440, regarding the necessity for and the provision of any service for which the county is required to provide reimbursement under this subsection.

b. The state shall pay for one hundred percent of the nonfederal share of the costs of case management provided for adults, day treatment, partial hospitalization, and the home and community-based services waiver services for persons who have no legal settlement or the legal settlement is unknown so that the persons are deemed to be state cases.

c. The case management services specified in this subsection shall be paid for by a county only if the services are provided outside of a managed care contract.

3. To the maximum extent allowed under federal law and regulations, a person with mental illness or mental retardation shall not be eligible for any service which is funded in whole or in part by a county share of the nonfederal portion of medical assistance funds unless the person is referred through the central point of coordination process, as defined in section 331.440. However, to the extent federal law allows referral of a medical assistance recipient to a service without approval of the central point of coordination process, the county of legal settlement shall be billed for the nonfederal share of costs for any adult person for whom the county would otherwise be responsible.

4. The county of legal settlement shall pay for one hundred percent of the nonfederal share of the cost of services provided to persons with chronic mental illness implemented under the adult rehabilitation option of the state medical assistance plan. The state shall pay for one hundred percent of the nonfederal share of the cost of such services provided to such persons without a county of who have no legal settlement or the legal settlement is unknown so that the persons are deemed to be state cases.

5. The state shall pay for the entire nonfederal share of the costs for case management services provided to persons seventeen years of age or younger who are served in a home and community-based services waiver program under the medical assistance program for persons with mental retardation.

6. Funding under the medical assistance program shall be provided for case management services for eligible persons seventeen years of age or younger residing in counties with child welfare decategorization projects implemented in accordance with section 232.188, provided these projects have included these persons in the service plan and the decategorization project county is willing to provide the nonfederal share of the costs.

7. Unless a county has paid or is paying for the nonfederal share of the costs of a person's home and community-based waiver services or placement in an intermediate care facility for persons with mental retardation under the county's mental health, mental retardation, and developmental disabilities services fund, or unless a county of legal settlement would become liable for the costs of services for a person at the level of care provided in an intermediate care facility for persons with mental retardation due to the person reaching the age of majority, the state shall pay for the nonfederal share of the costs of an eligible person's services under the home and community-based services waiver for persons with brain injury.

~~5. 8.~~ If a dispute arises between different counties or between the department and a county as to the legal settlement of a person who receives medical assistance for which the nonfederal share is payable in whole or in part by a county of legal settlement, and cannot be resolved by the parties, the dispute shall be resolved as provided in section 225C.8.

9. Notwithstanding section 8.39, the department may transfer funds appropriated for the medical assistance program to a separate account established in the department's case management unit in an amount necessary to pay for expenditures required to provide case management for mental health, mental retardation, and developmental disabilities services under the medical assistance program which are jointly funded by the state and county, pending final settlement of the expenditures. Funds received by the case management unit in settlement of the expenditures shall be used to replace the transferred funds and are available for the purposes for which the funds were originally appropriated.

Sec. 114. Section 249A.26A, Code 2005, is amended to read as follows:

249A.26A STATE AND COUNTY PARTICIPATION IN FUNDING FOR REHABILITATION SERVICES FOR PERSONS WITH CHRONIC MENTAL ILLNESS.

The county of legal settlement shall pay for the nonfederal share of the cost of rehabilitation services provided under the medical assistance program for persons with chronic mental illness, except that the state shall pay for the nonfederal share of such costs if the person ~~does not have a county of~~ has no legal settlement or the legal settlement is unknown so that the person is deemed to be a state case.

Sec. 115. NEW SECTION. 249A.32A HOME AND COMMUNITY-BASED SERVICES WAIVERS — LIMITATIONS.

In administering a home and community-based services waiver, the total number of openings at any one time shall be limited to the number approved for the waiver by the secretary of the United States department of health and human services. The openings shall be available on a first-come, first-served basis.

Sec. 116. NEW SECTION. 249A.32B EARLY AND PERIODIC SCREENING, DIAGNOSIS, AND TREATMENT FUNDING.

The department of human services, in consultation with the Iowa department of public health and the department of education, shall continue the program to utilize the early and periodic screening, diagnosis, and treatment program funding under the medical assistance program, to the extent possible, to implement the screening component of the early and periodic screening, diagnosis, and treatment program through the schools. The department may enter into contracts to utilize maternal and child health centers, the public health nursing program, or school nurses in implementing this section.

Sec. 117. Section 249J.8, subsection 4, as enacted by 2005 Iowa Acts, House File 841,<sup>21</sup> section 8, is amended to read as follows:

4. The department shall track the impact of the out-of-pocket expenditures on patient expansion population enrollment and shall report the findings on at least a quarterly basis to the medical assistance projections and assessment council established pursuant to section 249J.19. The findings shall include estimates of the number of expansion population members complying with payment of required out-of-pocket expenditures, the number of expansion population members not complying with payment of required out-of-pocket expenditures and the reasons for noncompliance, any impact as a result of the out-of-pocket requirements on the provision of services to the populations previously served, the administrative time and cost associated with administering the out-of-pocket requirements, and the benefit to the state resulting from the out-of-pocket expenditures. To the extent possible, the department shall track the income level of the member, the health condition of the member, and the family status of the member relative to the out-of-pocket information.

Sec. 118. Section 252B.4, subsection 3, Code 2005, is amended to read as follows:

3. Fees collected pursuant to this section shall be ~~retained by the department for use by~~ considered repayment receipts, as defined in section 8.2, and shall be used for the purposes of the unit. The director or a designee shall keep an accurate record of ~~funds so retained~~ the fees collected and expended.

Sec. 119. Section 252B.23, subsection 11, Code 2005, is amended to read as follows:

11. All surcharge payments shall be received and disbursed by the collection services center. The surcharge payments received by the collection services center shall be considered repayment receipts as defined in section 8.2 and shall be used to pay the costs of any contracts with a collection entity.

Sec. 120. NEW SECTION. 252B.25 USE OF FUNDING FOR ADDITIONAL POSITIONS.

1. The director, within the limitations of the amount appropriated for the unit, or moneys transferred for this purpose from the family investment program account created in section 239B.11, may establish new positions and add employees to the unit if the director determines that both the current and additional employees together can reasonably be expected to maintain or increase net state revenue at or beyond the budgeted level for the fiscal year.

2. a. The director may establish new positions and add state employees to the unit or contract for delivery of services if the director determines the employees are necessary to replace county-funded positions eliminated due to termination, reduction, or nonrenewal of a chapter 28E contract. However, the director must also determine that the resulting increase in the state share of child support recovery incentives exceeds the cost of the positions or contract, the positions or contract are necessary to ensure continued federal funding of the unit, or the new positions or contract can reasonably be expected to recover at least twice the amount of money necessary to pay the salaries and support for the new positions or the contract will generate at least two hundred percent of the cost of the contract.

b. Employees in full-time positions that transition from county government to state government employment under this subsection are exempt from testing, selection, and appointment provisions of chapter 19A and from the provisions of collective bargaining agreements relating to the filling of vacant positions.

Sec. 121. Section 321J.25, subsection 1, paragraph b, Code 2005, is amended to read as follows:

b. "Program" means a substance abuse awareness program provided under a contract entered into between the provider and the ~~commission on substance abuse of the Iowa department of public health under chapter 125.~~

<sup>21</sup> Chapter 167 herein

Sec. 122. Section 321J.25, subsection 2, unnumbered paragraph 1, Code 2005, is amended to read as follows:

A substance abuse awareness program is established in each of the regions established by the ~~commission on substance abuse~~ director of public health pursuant to section 125.12. The program shall consist of an insight class and a substance abuse evaluation, which shall be attended by the participant, to discuss issues related to the potential consequences of substance abuse. The parent or parents of the participant shall also be encouraged to participate in the program. The program provider shall consult with the participant or the parents of the participant in the program to determine the timing and appropriate level of participation for the participant and any participation by the participant's parents. The program may also include a supervised educational tour by the participant to any or all of the following:

Sec. 123. Section 505.25, Code 2005, is amended to read as follows:

505.25 INFORMATION PROVIDED TO MEDICAL ASSISTANCE PROGRAM AND HAWK-I PROGRAMS.

A carrier, as defined in section 514C.13, shall enter into a health insurance data match program with the department of human services for the sole purpose of comparing the names of the carrier's insureds with the names of recipients of the medical assistance program under chapter 249A or enrollees of the hawk-i program under chapter 514I.

Sec. 124. Section 514I.11, subsection 2, Code 2005, is amended to read as follows:

2. The trust fund shall be separate from the general fund of the state and shall not be considered part of the general fund of the state. The moneys in the trust fund are not subject to section 8.33 and shall not be transferred, used, obligated, appropriated, or otherwise encumbered, except to provide for the purposes of this chapter and except as provided in subsection 4. Notwithstanding section 12C.7, subsection 2, interest or earnings on moneys deposited in the trust fund shall be credited to the trust fund.

Sec. 125. Section 514I.11, Code 2005, is amended by adding the following new subsections: NEW SUBSECTION. 3. Moneys in the fund are appropriated to the department and shall be used to offset any program costs.

NEW SUBSECTION. 4. The department may transfer moneys appropriated from the fund to be used for the purpose of expanding health care coverage to children under the medical assistance program.

NEW SUBSECTION. 5. The department shall provide periodic updates to the general assembly regarding expenditures from the fund.

Sec. 126. Section 600.17, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 3. The department of human services shall make adoption presubsidy and adoption subsidy payments to adoptive parents at the beginning of the month for the current month.

Sec. 127. COMMISSION ON SUBSTANCE ABUSE — RULES. The administrative rules adopted by the commission on substance abuse that are in effect as of June 30, 2005, shall remain in effect until modified or rescinded by the state board of health.

Sec. 128. Sections 125.4, 125.5, and 125.6, Code 2005, are repealed.

Sec. 129. EFFECTIVE DATES.

1. The amendment in this division of this Act to section 144A.13A,<sup>22</sup> being deemed of immediate importance, takes effect upon enactment.

2. The amendment in this division of this Act to section 15H.3, subsection 5, being deemed of immediate importance, takes effect upon enactment and is retroactively applicable to April 19, 2005.

<sup>22</sup> Section "144.13A" probably intended

DIVISION V  
SUBSTITUTE DECISION MAKER ACT

Sec. 130. NEW SECTION. 231E.1 TITLE.

This chapter shall be known and may be cited as the "Iowa Substitute Decision Maker Act".

Sec. 131. NEW SECTION. 231E.2 OFFICE OF SUBSTITUTE DECISION MAKER — FINDINGS AND INTENT.

1. a. The general assembly finds that many adults in this state are unable to meet essential requirements to maintain their physical health or to manage essential aspects of their financial resources and are in need of substitute decision-making services. However, a willing and responsible person may not be available to serve as a private substitute decision maker or the adult may not have adequate income or resources to compensate a private substitute decision maker.

b. The general assembly further finds that a process should exist to assist individuals in finding alternatives to substitute decision-making services and less intrusive means of assistance before an individual's independence or rights are limited.

c. The general assembly further finds that a substitute decision maker may be necessary to finalize a person's affairs after death when there is no willing and appropriate person available to serve as the person's personal representative.

2. a. It is, therefore, the intent of the general assembly to establish a state office of substitute decision maker and authorize the establishment of local offices of substitute decision maker to provide substitute decision-making services to adults and their estates after their deaths, when no private substitute decision maker is available.

b. It is also the intent of the general assembly that the office of substitute decision maker provide assistance to both public and private substitute decision makers throughout the state in securing necessary services for their wards, principals, clients, and decedents and to assist substitute decision makers, wards, principals, clients, courts, and attorneys in the orderly and expeditious handling of substitute decision-making proceedings.

Sec. 132. NEW SECTION. 231E.3 DEFINITIONS.

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

1. "Client" means an individual for whom a representative payee is appointed.
2. "Commission" means the commission of elder affairs.
3. "Conservator" means conservator as defined in section 633.3.
4. "Court" means court as defined in section 633.3.
5. "Decedent" means the individual for whom an estate is administered or executed.
6. "Department" means the department of elder affairs established in section 231.21.
7. "Director" means the director of the department of elder affairs.
8. "Estate" means estate as defined in section 633.3.
9. "Guardian" means guardian as defined in section 633.3.
10. "Incompetent" means incompetent as defined in section 633.3.
11. "Local office" means a local office of substitute decision maker.
12. "Local substitute decision maker" means an individual under contract with the department to act as a substitute decision maker.
13. "Personal representative" means personal representative as defined in section 633.3.
14. "Planning and service area" means a geographic area of the state designated by the commission for the purpose of planning, developing, delivering, and administering services for elders.
15. "Power of attorney" means a durable power of attorney for health care as defined in section 144B.1 or a power of attorney that becomes effective upon the disability of the principal as described in section 633.705.
16. "Principal" means an individual for whom a power of attorney is established.

17. "Representative payee" means an individual appointed by a government entity to receive funds on behalf of a client pursuant to federal regulation.

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

19. "State office" means the state office of substitute decision maker.

20. "State substitute decision maker" means the administrator of the state office of substitute decision maker.

21. "Substitute decision maker" means a guardian, conservator, representative payee, attorney in fact under a power of attorney, or personal representative.

22. "Substitute decision making" or "substitute decision-making services" means the provision of services of a guardian, conservator, representative payee, attorney in fact under a power of attorney, or personal representative.

23. "Ward" means the individual for whom a guardianship or conservatorship is established.

Sec. 133. NEW SECTION. 231E.4 STATE OFFICE OF SUBSTITUTE DECISION MAKER — ESTABLISHED — DUTIES — DEPARTMENT RULES.

1. A state office of substitute decision maker is established within the department to create and administer a statewide network of substitute decision makers who provide substitute decision-making services if other substitute decision makers are not available to provide the services.

2. The director shall appoint an administrator of the state office who shall serve as the state substitute decision maker. The state substitute decision maker shall be qualified for the position by training and expertise in substitute decision-making law. The state substitute decision maker shall also have knowledge of social services available to meet the needs of persons adjudicated incompetent or in need of substitute decision making.

3. The state office shall do all of the following:

a. Select persons through a request for proposals process to establish local offices of substitute decision maker in each of the planning and service areas. Local offices shall be established statewide on or before July 1, 2015.

b. Monitor and terminate contracts with local offices based on criteria established by rule of the department.

c. Retain oversight responsibilities for all local substitute decision makers.

d. Act as substitute decision maker if a local office is not available to so act.

e. Work with the department of human services, the Iowa department of public health, the governor's developmental disabilities council, and other agencies to establish a referral system for the provision of substitute decision-making services.

f. Develop and maintain a current listing of public and private services and programs available to assist wards, principals, clients, personal representatives, and their families and establish and maintain relationships with public and private entities to assure the availability of effective substitute decision-making services for wards, principals, clients, and estates.

g. Provide information and referrals to the public regarding substitute decision-making services.

h. Provide personal representatives for estates where a person is not available for that purpose.

i. Maintain statistical data on the local offices including various methods of funding, the types of services provided, and the demographics of the wards, principals, clients, and decedents and report to the general assembly on or before November 1, annually, regarding the local offices and recommend any appropriate legislative action.

j. Develop, in cooperation with the judicial council as established in section 602.1202, a substitute decision-maker education and training program. The program may be offered to both public and private substitute decision makers. The state office shall establish a curriculum committee, which includes but is not limited to probate judges, to develop the education and training program.



4. The state office may do any of the following:
  - a. Accept and receive gifts, grants, or donations from any public or private entity in support of the state office.
  - b. Accept the services of individual volunteers and volunteer organizations.
  - c. Employ staff necessary to administer the state office and enter into contracts as necessary.
5. The department shall provide administrative support to the state office.
6. The department shall adopt rules in accordance with chapter 17A necessary to create and administer the state and local offices, relating to but not limited to all of the following:
  - a. An application and intake process and standards for receipt of substitute decision-making services from the state or a local office.
  - b. A process for the removal or termination of the state or a local substitute decision maker.
  - c. An ideal range of staff-to-client ratios for the state and local substitute decision makers.
  - d. Minimum training and experience requirements for professional staff and volunteers.
  - e. A fee schedule. The department may establish by rule a schedule of reasonable fees for the costs of substitute decision-making services provided under this chapter. The fee schedule established may be based upon the ability of the ward, principal, client, or estate to pay for the services but shall not exceed the actual cost of providing the services. The state office or a local office may waive collection of a fee upon a finding that collection is not economically feasible. The rules may provide that the state office or a local office may investigate the financial status of a ward, principal, or client who,<sup>23</sup> or an estate that requests substitute decision-making services or for whom or which the state or a local substitute decision maker has been appointed for the purpose of determining the fee to be charged by requiring the ward, principal, client, or estate to provide any written authorizations necessary to provide access to records of public or private sources, otherwise confidential, needed to evaluate the individual's or estate's financial eligibility. The rules may also provide that the state or a local substitute decision maker may, upon request and without payment of fees otherwise required by law, obtain information necessary to evaluate the individual's or estate's financial eligibility from any office of the state or of a political subdivision or agency of the state that possesses public records. In estate proceedings, the state or local decision maker shall be compensated pursuant to chapter 633, division III, part 8.
  - f. Standards and performance measures for evaluation of local offices.
  - g. Recordkeeping and accounting procedures to ensure that the state office and local offices maintain confidential, accurate, and up-to-date financial, case, and statistical records. The rules shall require each local office to file with the state office, on an annual basis, an account of all public and private funds received and a report regarding the operations of the local office for the preceding fiscal year.
  - h. Procedures for the sharing of records held by the court or a state agency with the state office, which are necessary to evaluate the state office or local offices, to assess the need for additional substitute decision makers, or to develop required reports.

Sec. 134. NEW SECTION. 231E.5 LOCAL OFFICE OF SUBSTITUTE DECISION MAKER.

1. The state substitute decision maker shall select persons to provide local substitute decision-making services in each of the planning and service areas, based upon a request for proposals process developed by the department.
2. The local office shall comply with all requirements established for the local office by the department and shall do all of the following:
  - a. Maintain a staff of professionally qualified individuals to carry out the substitute decision-making functions.
  - b. Identify client needs and local resources to provide necessary support services to recipients of substitute decision-making services.
  - c. Collect program data as required by the state office.
  - d. Meet standards established for the local office.

<sup>23</sup> According to enrolled Act

- e. Comply with minimum staffing requirements and caseload restrictions.
  - f. Conduct background checks on employees and volunteers.
  - g. With regard to a proposed ward, the local office shall do all of the following:
    - (1) Determine the most appropriate form of substitute decision making needed, if any, giving preference to the least restrictive alternative.
    - (2) Determine whether the needs of the proposed ward require the appointment of<sup>24</sup> guardian or conservator.
    - (3) Assess the financial resources of the proposed ward based on the information supplied to the local office at the time of the determination.
    - (4) Inquire and, if appropriate, search to determine whether any other person may be willing and able to serve as the proposed ward's guardian or conservator.
    - (5) Determine the form of guardianship or conservatorship to request of a court, if any, giving preference to the least restrictive form.
    - (6) If determined necessary, file a petition for the appointment of a guardian or conservator pursuant to chapter 633.
  - h. With regard to an estate, the local office may appoint a personal representative to file a petition to open an estate who shall do all of the following:
    - (1) Retain legal counsel as described in section 231E.11 to be compensated from the proceeds of the estate pursuant to chapter 633, division III, part 8.
    - (2) Liquidate all assets of the estate.
    - (3) Distribute the assets of the estate pursuant to chapter 633, division VII, parts 7 and 8, and other applicable provisions of law.
3. A local office may do any of the following:
- a. Contract for or arrange for provision of services necessary to carry out the duties of a local substitute decision maker.
  - b. Accept the services of volunteers or consultants and reimburse them for necessary expenses.
  - c. Employ staff and delegate to members of the staff the powers and duties of the local substitute decision maker. However, the local office shall retain responsibility for the proper performance of the delegated powers and duties. All delegations shall be to persons who meet the eligibility requirements of the specific type of substitute decision maker.
4. An individual acting as the state or a local substitute decision maker shall comply with applicable requirements for guardians, conservators, or personal representatives pursuant to chapter 633, attorneys in fact under a power of attorney pursuant to chapter 633 or a durable power of attorney for health care pursuant to chapter 144B, or representative payees pursuant to federal law and regulations.
5. Notwithstanding any provision to the contrary, an individual acting as the state or a local substitute decision maker shall not be subject to the posting of a bond pursuant to chapter 633. An individual acting as the state or a local substitute decision maker shall complete at least eight hours of training annually as certified by the department.

Sec. 135. NEW SECTION. 231E.6 COURT-INITIATED OR PETITION-INITIATED APPOINTMENT OF STATE OR LOCAL SUBSTITUTE DECISION MAKER — GUARDIANSHIP OR CONSERVATORSHIP — DISCHARGE.

The court may appoint on its own motion or upon petition of any person, the state office or local office of substitute decision maker, to serve as guardian or conservator for any proposed ward in cases in which the court determines that the proceeding will establish the least restrictive form of substitute decision making suitable for the proposed ward and if the proposed ward meets all of the following criteria:

- 1. Is a resident of the planning and service area in which the local office is located from which services would be provided or is a resident of the state, if the state office would provide the services.
- 2. Is eighteen years of age or older.

<sup>24</sup> The phrase "appointment of a" probably intended

3. Does not have suitable family or another appropriate entity willing and able to serve as guardian or conservator.
4. Is incompetent.
5. Is an individual for whom guardianship or conservatorship services are the least restrictive means of meeting the individual's needs.

Sec. 136. NEW SECTION. 231E.7 SUBSTITUTE DECISION MAKER-INITIATED APPOINTMENT.

The state office or local office may on its own motion or at the request of the court intervene in a guardianship or conservatorship proceeding if the state office or local office or the court considers the intervention to be justified because of any of the following:

1. An appointed guardian or conservator is not fulfilling prescribed duties or is subject to removal under section 633.65.
2. A willing and qualified guardian or conservator is not available.
3. The best interests of the ward require the intervention.

Sec. 137. NEW SECTION. 231E.8 PROVISIONS APPLICABLE TO ALL APPOINTMENTS AND DESIGNATIONS — DISCHARGE.

1. The court shall only appoint or intervene on its own motion or act upon the petition of any person under section 231E.6 or 231E.7 if such appointment or intervention would comply with staffing ratios established by the department and if sufficient resources are available to the state office or local office. Notice of the proposed appointment shall be provided to the state office or local office prior to the granting of such appointment.

2. The state office or local office shall maintain reasonable personal contact with each ward, principal, or client for whom the state office or local office is appointed or designated in order to monitor the ward's, principal's, or client's care and progress. For any estates in which the state office or local office is involved, the state office or local office shall move estate proceedings forward in a reasonable and expeditious manner and shall monitor the progress of any legal counsel retained on a regular basis.

3. Notwithstanding any provision of law to the contrary, the state office or local office appointed by the court or designated under a power of attorney document may access all confidential records concerning the ward or principal for whom the state office or local office is appointed or designated, including medical records and abuse reports.

4. In any proceeding in which the state or local office is appointed or is acting as guardian or conservator, the court shall waive court costs or filing fees, if the state office or local office certifies to the court that the state office or local office has waived its fees in their entirety based upon the ability of the ward to pay for the services of the state office or local office. In any estate proceeding, the court costs shall be paid in accordance with chapter 633, division VII, part 7.

5. The state or a local substitute decision maker shall be subject to discharge or removal, by the court, on the grounds and in the manner in which other guardians, conservators, or personal representatives are discharged or removed pursuant to chapter 633.

Sec. 138. NEW SECTION. 231E.9 FEES — APPROPRIATED.

Fees received by the state office and by local offices for services provided as state or local substitute decision maker shall be deposited in the general fund of the state and the amounts received are appropriated to the department for the purposes of administering this chapter.

Sec. 139. NEW SECTION. 231E.10 CONFLICTS OF INTEREST — LIMITATIONS.

Notwithstanding section 633.63 or any other provision to the contrary, a local substitute decision maker shall not provide direct services to or have an actual or the appearance of any conflict of interest relating to any individual for whom the local substitute decision maker acts in a substitute decision-making capacity unless such provision of direct services or the appearance of a conflict of interest is approved and monitored by the state office in accordance with rules adopted by the department.

Sec. 140. NEW SECTION. 231E.11 DUTY OF ATTORNEY GENERAL, COUNTY ATTORNEY, OR OTHER COUNSEL.

1. The attorney general shall advise the state office on legal matters and represent the state office in legal proceedings.
2. Upon the request of the attorney general, a county attorney may represent the state office or a local office in connection with the filing of a petition for appointment as guardian or conservator and with routine, subsequent appearances.
3. A local attorney experienced in probate matters may represent the personal representative for all routine matters associated with probating an estate.

Sec. 141. NEW SECTION. 231E.12 LIABILITY.

All employees and volunteers of the state office and local offices operating under this chapter and other applicable chapters and pursuant to rules adopted under this and other applicable chapters are considered employees of the state and state volunteers for the purposes of chapter 669 and shall be afforded protection under section 669.21 or 669.24, as applicable. This section does not relieve a guardian or conservator from performing duties prescribed under chapter 633.

Sec. 142. NEW SECTION. 231E.13 IMPLEMENTATION.

Implementation of this chapter is subject to availability of funding as determined by the department. The department shall notify the Code editor upon implementation of this chapter.

Sec. 143. Section 235B.6, subsection 2, paragraph e, Code 2005, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (11) The state office or a local office of substitute decision maker as defined in section 231E.3, appointed by the court as a guardian or conservator of the adult named in a report as the victim of abuse or the person designated to be responsible for performing or obtaining protective services on behalf of a dependent adult pursuant to section 235B.18.

Sec. 144. Section 633.63, subsection 3, Code 2005, is amended to read as follows:

3. A private nonprofit corporation organized under chapter 504, Code 1989, or current chapter 504 or 504A is qualified to act as a guardian, as defined in section 633.3, subsection 20, or a conservator, as defined in section 633.3, subsection 7, where the assets subject to the conservatorship at the time when such corporation is appointed conservator are less than or equal to seventy-five thousand dollars and if the corporation does not possess a proprietary or legal interest in an organization which provides direct services to the individual.

Sec. 145. Section 633.63, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 4. The state or a local substitute decision maker as defined in section 231E.3 is authorized to act in a fiduciary capacity in this state in accordance with chapter 231E.

#### DIVISION VI LONG-TERM LIVING SYSTEM

Sec. 146. NEW SECTION. 231F.1 INTENT FOR IOWA'S LONG-TERM LIVING SYSTEM.

1. The general assembly finds and declares that the intent for Iowa's long-term living system is to ensure all Iowans access to an extensive range of high-quality, affordable, and cost-effective long-term living options that maximize independence, choice, and dignity for consumers.
2. The long-term living system should be comprehensive, offering multiple services and support in home, community-based, and facility-based settings; should utilize a uniform assessment process to ensure that such services and support are delivered in the most integrated and life-enhancing setting; and should ensure that such services and support are provided by a well-trained, motivated workforce.

3. The long-term living system should exist in a regulatory climate that appropriately ensures the health, safety, and welfare of consumers, while not being overly restrictive or inflexible.

4. The long-term living system should sustain existing informal care systems including family, friends, volunteers, and community resources; should encourage innovation through the use of technology and new delivery and financing models, including housing; should provide incentives to consumers for private financing of long-term living services and support; and should allow Iowans to live independently as long as they desire.

5. Information regarding all components of the long-term living system should be effectively communicated to all persons potentially impacted by the need for long-term living services and support in order to empower consumers to plan, evaluate, and make decisions about how best to meet their own long-term living needs.

*Approved June 14, 2005, with exceptions noted.*

THOMAS J. VILSACK, *Governor*

Dear Mr. Secretary:

I hereby transmit House File 825, an Act relating to and making appropriations to the Department of Human Services, the Department of Elder Affairs, the Iowa Department of Public Health, the Commission of Veterans Affairs and the Iowa Veterans Home, and the Department of Inspections and Appeals, providing for fee increases, and including other related provisions and appropriations, and providing effective dates.

At the beginning of the legislative session, I challenged the Legislature to take action to protect the health security of Iowans. This bill takes a number of noteworthy steps to accomplish that goal.

This bill includes an increase of almost \$10 million to increase reimbursement for child care providers and to expand eligibility for low income families to qualify for state child care assistance, a key piece of our early childhood initiative. This bill complements those efforts with a \$4.5 million increase for the children's health insurance program (HAWK-I), to provide health coverage for increasing numbers of children.

During the past several years of difficult budget times, other states have had to cut services or reduce eligibility to maintain their Medicaid programs. Iowa has managed to avoid cutting services to our most vulnerable and found a way to actually improve services and provide health coverage for an additional 30,000 Iowans through this bill and House File 841,<sup>25</sup> the IowaCare Act. Today, we take steps to improve health security by providing \$6 million in Medicaid funding to pay for health services in the home and community for almost 2,500 ill or disabled Iowans. We also provide funding for a three percent reimbursement rate increase for all medical providers under the Medicaid program to maintain the high quality of care in our health care system.

Despite the good efforts highlighted above, I have several concerns with this budget. Although I am pleased that the Legislature did not cut Medicaid services and did increase provider reimbursement rates, based on current estimates, the Medicaid program was still not fully funded. Legislators will need to address this through a supplemental for Medicaid when they return next January.

<sup>25</sup> Chapter 167 herein

This budget also continues to rely heavily on the Senior Living Trust to fund essential health care services. This year we made a step to reduce that reliance. However, in order to continue protecting the health security of Iowans, we will need to further reduce the reliance on the Senior Living Trust while taking steps to pay back and strengthen the Trust.

I am also disappointed that the Legislature did not take action to save lives by increasing the tobacco tax, which in turn would reduce cigarette consumption, particularly among children. Children are particularly likely to stop smoking, or not start in the first place, when the price is increased. Increasing the tobacco tax by \$0.80 will lead to an estimated 15.6 percent decrease in youth smoking rates and a 4.2 percent decrease in adult smoking rates. Estimates also indicate that in the first five years alone, a tobacco tax increase will lead to \$8.5 million in health care cost savings for heart and stroke illnesses and \$5.9 million in health care savings by avoiding low birth weight births. I am hopeful that the Legislature will take action on the tobacco tax to save lives and protect the health security of Iowans next year.

House File 825 is approved on this date, with the following exceptions, which I hereby disapprove:

I am unable to approve the item designated as Section 9, subsection 14, in its entirety. This subsection prescribes requirements that the Department of Human Services would be required to abide by in order to implement the cost saving provisions of Iowa's preferred drug list (PDL) in the Medicaid program. These requirements are impractical and would create an unnecessary barrier to the effective implementation of the PDL. The requirements also seek to give drug manufacturers preferential treatment. Currently, the Department posts the agenda of the Pharmaceutical and Therapeutics Committee including drugs to be considered 30 days in advance for all interested parties, not just pharmaceutical manufacturers, to review. Current practice also allows all interested parties to comment. I believe that the process should provide timely notice to and opportunity for comment from all interested parties. The current practice accomplishes this.

I am unable to approve the item designated as Section 24, subsection 6, in its entirety. This subsection directs the Department of Human Services to continue contracting with current service providers for mental health services provided to the homeless rather than requesting competitive bids as required under federal law. I believe that it is a good government practice to get the best value and best service possible; therefore, I support using a competitive bidding process.

For the above reasons, I respectfully disapprove of the designated items in accordance with Article III, Section 16 of the Constitution of the State of Iowa. All other items in House File 825 are hereby approved this date.

Sincerely,  
THOMAS J. VILSACK, *Governor*