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Larned A. Waterman  
Iowa Nonprofit  
Resource Center  
University of Iowa  
130 Grand Avenue Court  
Iowa City, IA 52242

## RUUNAA Addresses Important Issues for Unincorporated Groups

by Willard L. Boyd III, Nyemaster Goode, P.C., Des Moines, IA

This past legislative session, the Iowa General Assembly adopted House File 726, or the Revised Uniform Unincorporated Nonprofit Association Act (RUUNAA), which will become effective on July 1, 2010.

RUUNAA, which will be codified at Iowa Code Chapter 501B, is based on a model law promulgated by the National Conference of Commissioners on State Laws and was initially proposed for adoption in Iowa by the Nonprofit Corporations Committee of the Iowa State Bar Association.

RUUNAA governs all unincorporated nonprofit associations (UNAs) that are formed or operate in Iowa. These are basically nonprofit entities that have not formally incorporated or organized under the Revised Iowa Nonprofit Corporation Act (RINCA) or any other business entity statute.

According to the comments to RUUNAA, there are probably hundreds of thousands of UNAs in the United States including unincorporated nonprofit

philanthropic, educational, scientific and literary clubs, sporting organizations, unions, trade associations, political organizations, churches, hospitals, and condominium and neighborhood associations. Importantly, RUUNAA fills a void by addressing many important legal issues relating to UNAs. Below are some highlights of RUUNAA.

### Terminology

RUUNAA utilizes terms that are similar to terms used in other business entity statutes, including RINCA.

RUUNAA contemplates that UNAs will have members. These members may be individuals, corporations, other legal entities or a mix. RUUNAA also contemplates that UNAs will have managers whose role is similar to that of a board of directors under the RINCA. In addition, RUUNAA contemplates that the UNAs will have a set of rules, similar to articles of incorporation and/or bylaws of a nonprofit corporation. These rules are

*RUUNAA, continued page 4*

## Iowa Keeps High Volunteerism Rank

by Cory Lasker, Editor

On Tuesday, June 15, 2010, Governor Chet Culver announced that Iowa ranks second in the nation for volunteer service rates. According to surveys done by Volunteering in America, 38.7% of Iowans devoted time to help others in 2009. Iowa volunteer service rates are second only to those of Utah.

The ranking also surpasses Iowa’s 2008 national rank of fifth.

According to a recent survey conducted by the Corporation for National and Community Service, approximately 883,900 Iowans have volunteered their time annually since 2007. On average, 93.7 million hours of service have annually

*Volunteerism, continued page 7*

# Five Iowa Communities Chosen for UI Economic Development Pilot Project

**F**ive communities in Iowa have been selected to participate in a pilot program with the University of Iowa College of Law, looking for ways to strengthen their economies by improving cooperation between local governments and nonprofit organizations.

The communities will work with the law school's Larned A. Waterman Iowa Nonprofit Resource Center and Institute of Public Affairs to improve the effectiveness and long-term sustainability of communities and secular and faith-based nonprofit organizations that provide services throughout Iowa.

"Under this program, we will provide training and technical assistance at no cost to local governments under 5,000 population and eligible nonprofit organizations serving those communities to develop and implement long-term community economic recovery strategies," said Jeff Schott, director of the IPA. "The five pilot communities will be used to identify, develop, evaluate and refine effective strategies to achieve the program objectives, and respond to the

issues, concerns, challenges, and opportunities that we encounter."

The five communities, and their nonprofit co-applicants, include:

- **City of Belle Plaine** and Belle Plaine Community Development Corp.
- **City of Chariton** and Chariton Chamber and Development Charitable Foundation, Lucas County Development Corp. and Chariton Chamber and Development Corp.
- **City of Pocahontas** and Pocahontas Chamber of Commerce
- **City of Prairie City** and Friends of Prairie Learning Center, Neal Smith Wildlife Refuge, Citizens in Action for Recreation Area Development, Inc. and Prairie City Business Association.
- **Lee County communities** of Donnellson, Franklin, Montrose, and West Point, co-sponsored by Lee County Economic Development Group, Inc. and Montrose Riverfront, Inc.

One city from each of five regions in Iowa was selected. Preliminary sessions will be held in each of the five communities this summer. The long-term community economic recovery strategy

sessions and training and technical assistance programs will begin in September.

Schott said the results obtained from the pilot projects will be used to develop best practices for nonprofit organizations and local governments to build organizational capacity and promote collaboration to develop long-term community economic recovery strategies. It will also serve as the basis for statewide organizational development training and technical assistance to non-profit organizations and local governments.

The program is funded by a \$250,000 grant from the Strengthening Communities Fund – State, Local and Tribal Government Capacity program of the American Recovery and Reinvestment Act (ARRA) of 2009.

The Strengthening Community Fund is dedicated to improving the effectiveness and long-term sustainability of communities and secular and faith-based nonprofit organizations located and providing services throughout Iowa.

# Ignorance Not Bliss When it Comes to 990-N Form

by Cory Lasker, Editor

Many small nonprofits in Iowa may receive an unwelcome surprise at the close of the 2010 tax year. It is estimated that approximately 200,000 small nonprofits nationwide may have lost their tax-exempt status on May 17 because they did not file a new form with the Internal Revenue Service.

When Congress amended the tax code three years ago, it included a provision that required nonprofits reporting \$25,000 or less in gross receipts to file a form called the 990-N. While certain organizations such as churches are exempt from filing this form, numerous nonprofits are affected by this provision. For entities with a taxable year ending December 31, the deadline to file the 2010

However, it is possible to have the reinstatement date effective retroactively to the date of revocation.

One small Iowa nonprofit, the Warren County Historical Society, was unaware of the new 990-N until Associated Press reporters called about a story they were writing. The Historical Society operates a small museum and historical library in Indianola, Iowa. While this nonprofit found out in time about the administrative change, many small nonprofits in Iowa will be blindsided by it.

The IRS is now requiring small nonprofits to file the 990-N in order to eliminate defunct organizations from its records and provide more transparency for the public. An IRS official noted that nonprofits should not be caught off guard by the change because the agency sent out press releases and letters to more than 500,000 nonprofits regarding the 990-N forms.

For more information on the 990-N requirements, visit the IRS website at <http://www.irs.gov/charities/article/0,,id=169250,00.html>

form was May 17. While their tax-exempt status is already lost, many small nonprofits will not realize it until January 1, 2011 when they are informed that they will have to pay taxes on donations they thought were exempt.

Failure to file the 990-N for three years results in an automatic revocation that the IRS cannot "undo." However, for nonprofits losing their tax-exempt status, the IRS has provided a way to have it reinstated. These organizations must file Form 1023 or Form 1024 and pay the appropriate user fee. If a nonprofit successfully applies for reinstatement, the effective date of its reinstated tax-exempt status will usually be the date the organization filed its application.



## Don't Forget November Nonprofit Summit



Don't forget the Iowa Nonprofit Summit scheduled for November 15-16 at the Scheman Building on the Iowa State University campus in Ames.

The theme is *building the capacity of our charitable sector through volunteer management and nonprofit effectiveness*.

The full workshop in the Principles and Practices for Charitable Nonprofit Excellence will be given. Completion of the workshop allows the nonprofits represented by the attendees to be listed on the INRC's Register of Accountability.

Theresa Pattara, member of Senator Charles Grassley's staff, will deliver a presentation on developments in federal law for nonprofits. Mark Mathis will give his popular workshop on nonprofit marketing, and Jude West will speak on leadership transition.

Other workshops will focus on engaging veterans, grants management, measuring outcomes, nonprofit advocacy, social media, and nonprofit human resources.

Online registration will start in late August. The fee is \$70 per person. If you have questions about the Summit, contact Richard Koontz at [richard-koontz@uiowa.edu](mailto:richard-koontz@uiowa.edu) or by calling 319.335.9765 or toll free at 866-500-8980.

referred to in the statute as “governing principles.”

RUUNAA provides various “default” provisions that are applicable unless the governing principles provide otherwise.

### **A UNA as a Legal Entity and Its Purposes**

Under RUUNAA, a UNA is deemed a legal entity distinct from its members and managers. It has the same powers as an individual to do all things necessary or convenient to carry out its activities. A UNA needs to have a nonprofit purpose. It may engage in profit-making activities but any profits from such activities must be used or set aside for the UNA's nonprofit purposes.

### **Ability to Own and Transfer Property and to Sue and Be Sued**

Under RUUNAA, a UNA, such as an unincorporated church, is able to acquire, hold, encumber, or transfer in its name an estate or interest in real or personal property and it may be a legatee, a devisee, or a beneficiary of a trust or contract. It may sue or be sued in its own name. A UNA may, if it chooses, file in the Secretary of State's office, a statement appointing an agent authorized to receive service of process.

### **Immunity Protections for Members and Managers**

RUUNAA provides various protections for its members, managers, and other involved persons. Under the statute, a debt, obligation, or other liability of a UNA, whether arising out of contract, tort or otherwise is solely the debt, obligation or other liability of the UNA and does not become the debt, obligation, or other liability of a member or manager solely because the member acts as a member or the manager acts as a manager. Iowa law already provides that a director, officer, employee, member, trustee or volunteer of a nonprofit organization is not personally liable for a claim

based upon an act or omission of the person performed in the discharge of the person's duties, except for acts or omissions that involve intentional misconduct or knowing violation of the law, or for a transaction from which the person derives an improper personal benefit. (Iowa Code section 613.19) RUUNAA provides a similar immunity shield to protect these individuals from potential liability to the UNA and its members.

### **Members' Authority**

Under RUUNAA, the following activities require the approval of the members unless the governing principles provide otherwise: (1) admit, suspend, dismiss, or expel a member; (2) select and dismiss a manager; (3) adopt, amend, or repeal the governing principles; (4) sell, lease, exchange or otherwise dispose of all, or substantially all, of the UNA's property outside the ordinary course of its activities; (5) dissolve or merge; (6) undertake any other act outside the ordinary course of the UNA's activities; (7) determine the policy or purpose of the UNA; and (8) do any other act or exercise a right requiring action by members permitted by the governing principles.

As noted above, the members have the right to select the managers unless the governing principles provide otherwise. If no managers are selected, all members are treated as the managers.

### **Members' Duties**

A member, in the role as a member, does not have a fiduciary duty to a UNA; however the member is required to discharge any duties to the UNA and exercise any rights consistently with the obligations of good faith and fair dealing.

### **Managers' Fiduciary Duties, Reimbursement, and Indemnification**

Similar to other entity statutes, under RUUNAA, a manager owes a duty of loyalty and care to the UNA and its members. A manager is to manage

the UNA in good faith, in a manner the manager reasonably believes to be in the best interests of the UNA and with such care, including reasonable inquiry, as a prudent person would reasonably exercise in a similar position and under similar circumstances. RUUNAA provides a process for handling conflict of interest situations and provides that after full disclosure of all material facts, a specific act or transaction that would otherwise violate the duty of loyalty by a manager may be ratified or authorized by the members.

As noted above, there is a liability shield for managers in RUUNAA as well as in Iowa Code section 617.19. In addition, unless otherwise provided in the governing principles, a UNA is to reimburse a member or manager for authorized expenses incurred on behalf of the UNA. A UNA may also indemnify a member or manager.

### **Dissolution**

Under RUUNAA, a UNA may be dissolved pursuant to the governing principles, approval of the members, by the last preceding incumbent manager(s) if no members, or by court order. Upon dissolution, the UNA is to wind up. A UNA may merge with any organization that is authorized by law to effect a merger with an UNA.

### **Conclusion**

RUUNAA is not intended to replace the Revised Iowa Nonprofit Corporation Act (RINCA) and for most nonprofits with significant activities, it will continue to be preferable to be incorporated as an Iowa nonprofit corporation under RINCA. Still, there are associations that may wish to remain unincorporated for various reasons. For these unincorporated associations, whether they are churches, garden clubs, condominium associations or other type of nonprofit associations, RUUNAA provides more certainty so that UNAs and their members have greater assurances regarding the legal rights of UNAs and their members as well as the liability protections for the UNA's members and managers.



# Nonprofit Sector and Community Solutions Act of 2010 Introduced in House

by Richard Koontz, INRC Director

The Nonprofit Sector and Community Solutions Act of 2010 (HR 5533) has been introduced by Congresswoman Betty McCollum (D-MN).

The purpose of the bill is to “enhance the ability of the nonprofit sector to address public challenges and maximize opportunities to improve quality of life in the communities where nonprofit organizations work.”

The bill proposes the creation of a United States Council on Nonprofit Organizations and Community Solutions (the Council), and an Interagency Working Group on Nonprofit Organizations and the Federal Government (the Working Group).

The Council would “study how the Federal Government can work more efficiently and effectively with nonprofit organizations to achieve better outcomes in addressing national and community challenges.” The Working Group would look at federal policies affecting nonprofits on such issues as contracting with the federal government and capacity building, and would coordinate recommendations from the Council.

To see the full text of the bill go to <http://thomas.loc.gov/cgi-bin/query/z?c111:H.R.5533>:

For an overview of the bill see the National Council of Nonprofits at <http://www.councilofnonprofits.org/sites/default/files/Nonprofit%20Sector%20and%20Community%20Solutions%20Act%20Brief.pdf>

# Boyd Named Interim Director of University of Iowa Museum of Art

Larned A. Waterman Iowa Nonprofit Resource Center Founder Willard “Sandy” Boyd has agreed to serve as Interim Director of the University of Iowa Museum of Art until a permanent Director is named. He will begin these duties on July 1.

Boyd is currently the Rawlings-Miller Professor of Law and President Emeritus of both The University of Iowa and The Field Museum of Chicago. Professor Boyd, who serves as Chair of the Iowa Cultural Trust, is a member of the U.S. Department of State Cultural Property Advisory Committee, a member of the American Academy of Arts and Sciences, and the board of National Arts Strategies.

He has served as Chairman of the National Museum Services Board, a member of the National Council on the Arts, the Advisory Committee for the Getty Education Institute for the Arts, the Board of Directors of Americans for the Arts, and Humanities Iowa.



# Drake University Offers Grant Writing Certificate

The Drake University Center for Professional Studies is offering a comprehensive 48-contact-hour certificate program on grant writing and management.

The sessions will be offered July 19 through August 5 with the week of July 26 off. Classes will be held in Room 108 Aliber Hall in the Zimpleman Graduate and Professional Education Center on the Drake campus in Des Moines.

The program brings key competencies to the art and practice of grant writing and management. Topics include developing a sustainable grants strategy to be a creative, successful and competitive grant seeker, the role of the budget in grant writing, and what happens after receiving a grant.

The cost of the eight-day program is \$975 and includes all key learning materials.

For more information on the certificate, see <http://www.cbpa.drake.edu/cps/>

# Governor's Volunteer Award Recipients Named

Recipients of the 2010 Governor's Volunteer Awards have been announced. Nearly 800 volunteers were selected for awards.

The most recent *Volunteering in America* study done by the Corporation for National and Community Service released on June 15 ranked Iowa second among the top five states for volunteer rate. (See related story this issue.)

A complete list in pdf form of this year's Governor's Volunteer Award recipients may be viewed at [www.volunteeriowa.org/awards](http://www.volunteeriowa.org/awards)

# Items Of Interest

From *Conference Notebook*, a Chronicle of Philanthropy blog

## What Does it Take to be an Executive Director?

In an April 23, 2010 posting on the Conference Notebook blog of The Chronicle of Philanthropy, Caroline Preston wrote about a panel discussion at the Young Nonprofit Professionals Network conference in Denver.

The article is called *So You Think You Want to Be an Executive Director?*

What knowledge and qualities does one need to successfully take on this role? There are some aspects of the job that are not glamorous but nonetheless important to consider.

See the article at <http://philanthropy.com/blogPost/So-You-Think-You-Want-to-Be-an/23418/>

## From Nonprofit Quarterly

### Use Uncertain Times to Refocus

The May 2010 issue of the NPQ e-Newsletter features a link to a talk given by William Schambra of the Bradley Center for Philanthropy and Civic Renewal.

Schambra gave the talk in May at the Alliance for Nonprofit Excellence conference in Memphis, TN. It is entitled *Wilderness Time for Nonprofits*. Schambra encourages nonprofit leaders to use times of economic uncertainty to refocus on the mission of the organizations they lead. Read the full address here: [http://www.nonprofitquarterly.org/index.php?option=com\\_content&view=article&id=2317%3Awilderness-time-for-nonprofits&catid=153%3Aweb-articles&Itemid=1](http://www.nonprofitquarterly.org/index.php?option=com_content&view=article&id=2317%3Awilderness-time-for-nonprofits&catid=153%3Aweb-articles&Itemid=1)

## Volunteering is About Meaning and Adventure

Gregg Petersmeyer who served under President George H.W. Bush urges nonprofits not to use guilt or the idea that volunteerism is something that people “should do”. Instead, he encouraged listeners to find out what inspires volunteers to act then shape their messages accordingly.

Todd Bernstein, president of the Philadelphia nonprofit Global Citizen, suggests identifying service ideas that meet the needs and mission of local groups as a way of inspiring people to get involved in service. Read the article at <http://philanthropy.com/blogPost/Volunteerism-Is-About/23324/>

## From TechSoup

### A Collection of Facts About Paper

Does it really matter how much paper you use at the office? How do Americans stack up against citizens of other countries in paper use? Can you really save money at the office by reducing paper consumption?

TechSoup has gathered some surprising information about paper use and how some organizations have cut back and reduced expenses. Such measures do make a difference on an environmental scale, too.

Find out more at <http://www.techsoup.org/greentech/paper/>

TechSoup is a Web site dedicated to providing technical information and resources for nonprofit organizations. See the home page at <http://home.techsoup.org/pages/about.aspx>

## Thinking Through the Capital Campaign

What are the top seven reasons that capital campaigns fail? One of them is the “one big gift syndrome”. Fuzzy goals and crazy goals are two others.

M. Kent Stroman, a Bartlesville, Oklahoma consultant and Phil L. Lakin, chief executive of the Tulsa Community Foundation described them at the Association of Fundraising Professionals conference held in Baltimore, Maryland in April.

See all seven reasons at <http://philanthropy.com/blogPost/Why-Capital-Campaigns-Fail/22547/>

## Locally

### Linn County Nonprofit Center Relocates

The Linn County Nonprofit Resource Center (LCNRC) recently relocated to the Torch Press Building at 324 Third Street SE in downtown Cedar Rapids.

The LCNRC closed June 24 and 25 to make the move and staff hoped to be settled in, with telephone and e-mail access reestablished, the following week.

The Greater Cedar Rapids Community Foundation is located in the same building.

You may reach the LCNRC by e-mailing [Katie.giorgio@gcrf.org](mailto:Katie.giorgio@gcrf.org) or [Robert.untiedt@gcrf.org](mailto:Robert.untiedt@gcrf.org) or by telephoning 319.365.8536.

been given in Iowa, averaging to 40.1 hours per resident each year.

In addition to the state's impressive volunteerism rates, four Iowa cities rank in the top twenty for midsize U.S. city volunteer rates. Iowa City is ranked second overall with a volunteer rate of fifty percent. Waterloo, Des Moines, and Cedar Rapids also rank among the top twenty midsize U.S. cities. Iowa had more cities in the top twenty than any other state.

"Last year, we challenged Iowans to serve with our Summer of Service Initiative, and it is clear that Iowans have answered that call," Governor Culver said. "These numbers are a representation of the character of Iowans, and I am proud that our residents are committed to serving their neighbors and communities. But more is still needed. As we reflect on these successes, I want to renew the challenge we made last year and ask that Iowans continue to give their time and talents to help our fellow Iowans."

In 2009, Iowans volunteered 109 million hours, which was an increase of 28 million hours from 2007. On average, Iowans averaged forty-seven

hours of service, an eleven-hour increase of 2007.

In addition to these impressive increases, more college students and adults volunteered in Iowa in 2009 than in previous years. Iowa's college volunteer ranking increased from thirty-second to second in the nation. The number of mentoring adults also

aged 16 and older.

For the purposes of the survey, volunteers are considered individuals who performed unpaid volunteer activities through or for an organization at any point during the previous year.

In addition to gathering information on the number of volunteers, information was collected on the type

"Last year, we challenged Iowans to serve with our Summer of Service Initiative, and it is clear that Iowans have answered that call..."

Governor Chet Culver

increased as Iowa's ranking in this area went from seventeenth to fifth in the nation.

The data for the study was gathered through a supplement to the Current Population Survey (CPS) September Volunteer supplement. The CPS is a monthly survey of about 60,000 households. The data collected relates to the volunteering activities of adults

of service that was given. The majority of people volunteer through or for religious and educational organizations. The top four service activities that people participate in are collecting and distributing food, fundraising, general labor, and professional management. For more information, go to [www.volunteeringinamerica.gov/](http://www.volunteeringinamerica.gov/)

## From the INRC

### Koontz Quoted in Sunday Register

INRC Director Richard Koontz was quoted in a story about ChildServe CEO Lloyd VanderKwaak in the June 27, 2010 Des Moines Sunday Register. The copyrighted story by Lynn Hicks profiled VanderKwaak and his views on successful executive director and board relationships.

Koontz mentioned the heightened attention organizations are giving to issues of good governance. The article also mentioned the Principles and Practices training offered by the INRC. See the article at <http://inrc.continuetolearn.uiowa.edu/AboutUs/documents.asp>

### Watch for the INRC Ten-Year Report

The Iowa Nonprofit Resource Center marked its tenth anniversary of the Iowa Nonprofit Resource Center in 2009.

This summer, the Larned A. Waterman Iowa Nonprofit Resource Center will release its ten-year report documenting its many changes, activities, and milestones. The report will be made available on our Web site.

### Good Luck Mary Kay!

On July 30, the INRC will say goodbye to friend and co-worker Mary Kay McCune. After four years with us, Mary Kay is retiring.

She has worked in the mornings answering the telephone, maintaining our databases, preparing mailings and workshop materials, and attending to many other duties that support the INRC.

Mary Kay looks forward to time with her husband George and working in her garden. We wish her the best.

# Training Opportunities

## Iowa State University Nonprofit Management Academy

**Managing Challenges During Tough Times**, August 26

**Financial Performance**, September 30

**Grant Writing and Research**, October 28

**Effective Program Evaluation and Outcomes-Based Measurement**, November 18

**Marketing for the Arts**, December 9

All courses meet 9 a.m.-4 p.m., Thursdays and are held at the Coral Ridge Mall Community Room, 1451 Coral Ridge Avenue, Coralville.

Registration deadline is five working days prior to each class meeting. For more information, see [www.extension.iastate.edu/johnson/news/NonProfit+Management+Academy+2010.htm](http://www.extension.iastate.edu/johnson/news/NonProfit+Management+Academy+2010.htm)

## About Our Organization

<http://inrc.continuetolearn.uiowa.edu/>

The Larned A. Waterman Iowa Nonprofit Resource Center is a University of Iowa interdisciplinary collaboration created to make more accessible educational and service programs focused on strengthening the operational capacity of Iowa nonprofit organizations.

The INRC works collaboratively with government agencies, nonprofit organizations and educational institutions to impart new knowledge through activities and provide information and training resources to help nonprofit organizations and interested persons throughout Iowa. We seek to build the capacity and develop the effectiveness of community-based organizations and enhance the overall effectiveness of local organizations in building communities. The Center also introduces students to the nonprofit sector and develops their sense of public and community service.

## Nonprofit Association of the Midlands

**ReadyTalk, Phone Conferencing/ Webinars**

July 15, 9:00 -10:00 am

**Nebraska Charities Conference— Navigating Nebraska and Federal Law for Nonprofits; Finding Balance between Mandates and Self Governance**

July 26 in Kearney, NE

July 29 in Omaha, NE

Each session meets 9:00 am -5:00 pm

Sponsored by the Nebraska Attorney General's Office and NAM.

**Program & Project Management, A Crash Course for Beginners**

July 27, 2:30 - 4:30 pm

**Desperate Grant Writers**

August 19, 8:00 am-4:00 pm

**Board Orientation Workshop**

August 24, 2:30 - 4:30 pm

**Beginning in August**, A Series on Basic Fiscal Management

For more information, view the NAMS calendar at:

<http://www.nonprofitam.org/calendar.aspx?NAM>

### Legal Disclaimer:

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The Larned A. Waterman  
Iowa Nonprofit Resource Center  
130 Grand Avenue Court  
Iowa City, IA 52242  
1.866.500.8980

<http://inrc.continuetolearn.uiowa.edu/default.asp>

### INRC staff:

**Richard Koontz**, INRC Director  
**Mary Kay McCune**, Staff Support  
**Brenda Steinmetz**, Program Assistant  
**Diane DeBok**, Program Associate  
**Cory Lasker**, Research Assistant